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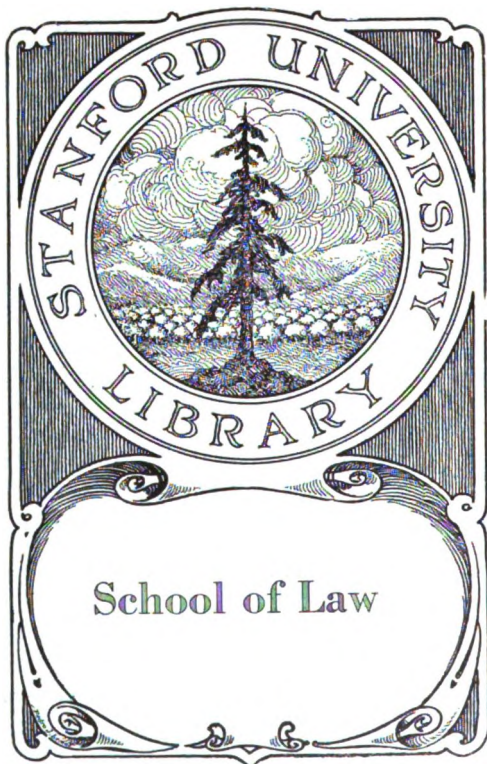
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Municipal Journal.

BY
ARTHUR L. WILLSON, B.A.

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THE Canadian Municipal Journal

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THE MUNICIPAL ACT.

(R. S. O. 1887, cap. 184.)

(CONTINUED.)

NOTE.—The Municipal Amendment Act, 1892, makes the following amendments to the consolidation of the Act contained in Volume I. of THE JOURNAL up to section 269:—

Sub-section 7 of section 2, page 4, is amended by substituting the words, "and any interest or estate therein or right or easement affecting the same," for the last seven words of said sub-section. It is also enacted that "this section shall not apply to any matter in respect to which an action is now pending but the same shall be concluded and adjudicated upon as though this Act had not been passed."

Sub-section 1 of section 73 of the said Act is amended by adding immediately after the words "the same" the 14th line (page 123 of JOURNAL) the following: "elsewhere than in the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Thunder Bay, Rainy River, and the provisional County of Haliburton;" after article 4 (page 124) add "and in the said last named districts and provisional county:" "5. In townships and incorporated villages freehold to \$200, or leasehold to \$400." "6. In towns freehold to \$400 or leasehold to \$800."

Sub-section 2 (page 124) is amended by inserting the the words "or by the expiration or surrender of the demised term" after the word "property" in the fifth line. Add to sub-section 5 of sec. 79 (page 181) the following words, "any leaseholder the term of whose lease is not less than five years shall be deemed an owner within the meaning of this section."

Section 80 is amended by striking out all the words words after the word "following" in the fourth line and substituting the following words:—

"In townships and incorporated villages...	\$100.
"In towns where the population does not exceed 8,000	200
"In towns with a population of over 8,000.	300
"In cities	400
"the population shall be determined by reference to the latest annual enumeration of the assessors."	

Section 99 (page 281) is amended by inserting at the commencement thereof the following words:—

"In any case where the returning officer for any ward refuses or neglects to attend at the time and place required by the clerk to receive his instructions and nomination papers and"

The Act is amended by inserting the following as 105a (page 237) :—

105a. The voter shall be entitled to select for himself for that purpose any one of the forms contained in sections 102 to 105 both inclusive; whatever may be the description either in the voter's list or assessment roll as to the qualification or character in respect of which he is entered upon the list or roll.

Section 117 (page 240) is repealed and the following substituted therefor :—

117. At the nomination meeting or on the following day any person proposed for one or more offices may resign or elect for which office he is to remain nominated; and in default he shall be taken as nominated for the office in respect of which he was first proposed and seconded; the clerk or other returning officer or chairman shall, on the day of the nomination post up in the office of the clerk of the municipality the names of the persons proposed for the respective offices; provided always that the resignation after the nomination meeting of any person so proposed shall be in writing, signed by him and attested by a witness, and shall, within the time hereinbefore mentioned, be delivered to the clerk of the municipality; provided, also, that if by reason of such resignation only one candidate remains proposed for a particular office, the clerk or other returning officer shall declare such candidate duly elected for such office.

Section 239 (page 302) is amended by adding thereto the following sub-section :—

(2) In case of the illness or absence of the mayor, or of the office of mayor being vacant, the person appointed by the council under this section as presiding officer shall also have authority to act as police commissioner during the time he acts as such presiding officer in the place of the mayor.

Section 247 (page 304) is amended by adding thereto the following sub-section :—

(2) A copy of any document in the possession of or under the control of the clerk of the municipality certified under

his hand and under the corporate seal of the municipality may, after the original thereof has been produced from the proper custody, be filed in any court in lieu of such original and shall be received in evidence without proof of the seal of the corporation or of the signature or official character of the person appearing to have signed the same and without further proof thereof unless the court or judge otherwise directs.

Sub-section 2 of section 263 (pages 315, 316) is amended by adding thereto the following article:—

(a) They shall also make a report upon the condition and value of the securities given by the Treasurer for the due performance of the duties of his office, and such report shall show what cash balance, if any, was due from the treasurer to the municipality at the date of the audit, and where such balance is deposited, and what security exists that the same will be available when required for the purposes of the municipality; but this shall not relieve the council from the performance of any duty imposed thereon by section 249.

Section 263 is amended by adding thereto the following sub-sections:—

(2a) The auditors may make a written requisition upon the treasurer for an order or request to or upon any bank or company with whom the public moneys are or have been deposited, or with whom such treasurer has kept an account, authorizing or requesting such bank or company, to exhibit the account and the details thereof to such auditors, and such treasurer shall within twenty-four hours after the delivery to him of such requisition comply therewith upon pain of forfeiture of office.

(2b) It shall be the duty of the treasurer of every municipal corporation to keep the moneys of the municipality separate as far as practicable from his own moneys, and in depositing any money of the municipality in any bank or company to deposit the same to a separate account kept in his name as treasurer or under some other designation that may show the account to be an account of the money of the municipality.

Sub-section 8 of said section 263 is amended by inserting after the word "taxes" in the eighth line (page 316)

the words following: "A similar statement in detail shall be attached thereto respecting the last 15 days of the preceding year."

VALUATORS.

269. The council of every county may appoint two or more valutors for the purpose of valuing the real property within the county whose duty it shall be to ascertain, in every fifth year at furthest, the value of the same in the manner directed by the county council; but the valutors shall not exceed the powers possessed by assessors; and the valuation so made shall be made the basis of equalization of the real property by the county council for a period not exceeding five years; and the equalization of personal property shall be as heretofore. 46 V. c. 18, s. 271; 55 V. c. 48, s. 14.

(2) The county council may, at or before the expiration of the said period, extend the time for a term not exceeding five years further, and thereupon the valuation shall continue to be made the basis of equalization of the real property by the county council for such extended period.

270. (1) Every person elected or appointed under this Act to any office requiring a qualification of property in the incumbent shall, before he takes the declaration of office, or enters on his duties, make and subscribe a solemn declaration to the effect following:

I, *A. B.*, do solemnly declare that I am a natural born (or naturalized) subject of Her Majesty; and have and had to my own use and benefit, in my own right (or have and had in right of my wife, *as the case may be*), as proprietor (or tenant, *as the case may be*), at the time of my election (or appointment, *as the case may require*) to the office of

hereinafter referred to, such an estate as does qualify me to act in the office of (*naming the office*) for (*naming the place for which such person has been elected or appointed*), and that such estate is (*the nature of the estate to be specified, as an equitable estate of leasehold or otherwise, as the case may require, and if land, the same to be designated by its local description, rents or otherwise*) and that such estate at the time of my election (or appointment, *as the case may require*) was of the value of at least (*specifying the value*) over and above all charges, liens and incumbrances affecting the same.

(2) Where any person has been elected as reeve, deputy-reeve, or councillor of any township council he may,

instead of the foregoing declaration, make and subscribe a solemn declaration to the effect following:—

I, A. B., do solemnly declare that I am a natural born (or naturalized) subject of Her Majesty; and have and had to my own use and benefit, in my own right (or have and had in right of my wife, *as the case may be*) as proprietor at the time of my election to the office of ^{herein-} after referred to, such an estate as does qualify me to act in the office of (naming the office) for (naming the place for which such person has been elected), and that such estate is (*the nature of the estate to be specified and the land to be designated by its local description*) and that such estate at the time of my election was in my actual occupation, and was actually rated in the then last revised assessment roll of this Township (naming it) at an amount not less than \$2,000. 46 V. c. 18, s. 272; 49 V. c. 37, s. 4.

271. Every member of a municipal council, every mayor, and every clerk, treasurer, assessor and collector, engineer or clerk of works and street overseer or commissioner appointed by a council, shall also, before entering on the duties of his office, make and subscribe a solemn declaration to the effect following:—

I, A. B., do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*inserting the name of the office*), to which I have been elected (or appointed) in this township (or *as the case may be*), and that I have not received, and will not receive, any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office, and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the said corporation " (where declaration is made by the clerk, treasurer, assessor, collector, engineer, clerk of works or street overseer, the words following) : 'save and except that arising out of my office or position as clerk (or *as the case may be*).'" 51 V. c. 28, s. 15; 55 V. c. 48, s. 15.

271 (a). Every returning officer, deputy returning officer, poll clerk, constable and other officer appointed by a council shall, before entering upon the duties of the office, make and subscribe a solemn declaration to the effect following:—

I, A. B., do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*inserting the name of the office*), to which I have been elected (or appointed) in the township (or *as the case may be*), and that I have not received, and will not receive any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office.

NOTE—It will be seen that sec. 271 of the Municipal Act has been repealed and a distinction made in the forms given by s. 271 and s. 271a for members of councils and certain officials, the nature of whose duties should not preclude them from having an

interest in a contract with the corporation. But as by sec. 271a no exception is made for officials enumerated in sec. 271, such officials are required to make the declaration given in sec. 271a under the words "and other officer appointed by a council."

272. The solemn declaration to be made by every auditor shall be as follows :

I, A. B., having been appointed to the office of Auditor for the Municipal Corporation of _____, do hereby promise and declare, that I will faithfully perform the duties of such office according to the best of my judgment and ability ; and I do solemnly declare, that I had not directly or indirectly any share or interest whatever in any contract or employment (except that of Auditor, *if reappointed*) with, by, or on behalf of such Municipal Corporation, during the year preceding my appointment, and that I have not any such contract or employment except, that of auditor, for the present year. 46 V. c. 18, s. 274.

273. The head and other members of the council, and the subordinate officers of every municipality, shall make the declaration of office and qualification before some Court, Judge, Police Magistrate, or other Justice of the Peace having jurisdiction in the municipality for which such head, members or officers have been elected or appointed, or before the clerk of the municipality ; and the Court, Judge, or other persons before whom such declarations are made, shall give the necessary certificate of the same having been duly made and subscribed. 46 V. c. 18, s. 275.

NOTE.—"The necessary certificate," the word "necessary" refers to the proof of compliance with the Act rather than to any particular form of certificate to be given, see sec. 277. The certificate may be in the following form : "I do certify that C. D. who has been elected (*or appointed*) to the office of (*Mayor, Reeve, Clerk, or as the case may be*) of the _____ of _____, has this day made and subscribed before me a declaration of office (or qualification) as required by the provisions of *The Municipal Act*,—A. B., J. P. (*or as the case may be*).

274. The head of any council, any alderman, reeve or deputy-reeve, any Justice of the Peace or clerk of a muni-

cipality may, within the municipality, administer any oath, affirmation or declaration under this Act, relating to the business of the place in which he holds office, except where otherwise specially provided, and except where he is the party required to make the oath, affirmation or declaration. 46 V. c. 18, s. 276.

275. The deponent, affirmant, or declarant shall subscribe every such oath, affirmation, or declaration, and the person administering it shall duly certify and preserve the same, and within eight days deposit the same in the office of the clerk of the municipality to the affairs of which it relates. 46 V. c. 18, s. 277.

276. The head of every council, or in his absence the chairman thereof, may administer an oath or affirmation to any person concerning any account or other matter submitted to the council. 46 V. c. 18, s. 278.

277. Every qualified person duly elected or appointed to be a mayor, alderman, reeve, or deputy-reeve, councillor, police trustee, assessor or collector of or in any municipality, who refuses such office, or does not within twenty days after knowing of his election or appointment, make the declarations of office and qualification where a property qualification is required, and every person authorized to administer such declaration, who, upon reasonable demand, refuses to administer the same, shall, on summary conviction thereof before two or more Justices of the Peace, forfeit not more than \$80, nor less than \$8, at the discretion of the Justices, to the use of the municipality, together with the cost of prosecution. 46 V. c. 18, s. 279.

NOTE.—Making and subscribing the declarations of office and qualification are sufficient evidence of acceptance of office, and the limitation of time within which such declarations are to be made enables the electors when default is made to take action as herein provided, for contravention of the provisions of the Act, and in case of a contested election there need be no uncertainty when the declarations have been made, in exercising the privileged alternative mentioned in sec. 188 of instituting proceedings “within six weeks after the election,” “or one month after acceptance of office.”

278. (1) In case the remuneration of any of the officers of the municipality has not been settled by Act of the Legislature, the council shall settle the same, and the council shall provide for the payment of all municipal officers, whether the remuneration is settled by statute or by by-law of the council.

(2) No municipal council shall assume to make any appointment to office, or any arrangement for the discharge of the duties thereof, by tender or to applicants at the lowest remuneration.

(3) Where a solicitor or counsel is employed by a municipality, whose remuneration is wholly or partly by salary, annual or otherwise, the municipality shall, notwithstanding, have the right to recover and collect lawful costs in all actions and proceedings in the same manner as if the solicitor or counsel, was not receiving a salary, when the costs are, by the terms of his employment, payable to the solicitor or counsel as part of his remuneration in addition to his salary. 46 V. c. 18, s. 280.

(1a) It shall also be the duty of the council to give a fair and reasonable remuneration to the clerk of the municipality for services and duties performed by him in carrying out the provisions of *The Ditches and Water Courses Act*, the same to be fixed by by-law of the council.

(1b) The council shall also fix by by-law the sum to be paid to the clerk by any person for copies of awards or other documents, or for any other services rendered by the clerk other than services which it is his duty to perform under the provisions of *The Ditches and Water Courses Act*.

NOTE.—The appointment and remuneration of officers should always be fixed by by-law.

279. All officers appointed by a council shall hold office until removed by the council, and shall, in addition to the duties assigned to them in this Act, perform all other duties required of them by any other statute, or by the by-laws of the council. 46 V. c. 18, s. 281.

NOTE.—This section is somewhat conflicting with sec. 271, ss. 1a and 1b. However, councils should make provisions for special services, enumerating the several Acts relating thereto in the by-law

fixing the remuneration of officers. Officials hold office only during the pleasure of the council, unless the office is held under a contract, in writing, authorized by a by-law of the corporation.

280. Any municipal council, other than a provisional council, may grant to any officer who has been in the service of the municipality for at least twenty years, and who has, while in such service, become incapable through old age of efficiently discharging the duties of his office, a sum not exceeding his aggregate salary or other remuneration for the last three years of his service, as a gratuity upon his removal or resignation. 46 V. c. 18, s. 282.

281. The bonds or policies of guarantee of any incorporated or joint stock company, empowered to grant guarantees, bonds or policies for the integrity and faithful accounting of public officers and other like purposes, may be accepted instead of, or in addition to, the bond or security of any officer or servant of a municipal corporation, in all cases where, by the provisions of this or any other Act, or of any by-law of such corporation, such officer or servant is required to give security, either by himself, or by himself and a surety or sureties, and where the parties directed or authorized to take such security see fit to accept the bond or policy of such company as aforesaid, and approve the terms and conditions thereof; and all the provisions in such Act relating to such security, to be given by such officer or servant, or his sureties, shall apply to the bonds and policies of guarantee of such company as aforesaid, which may be taken instead of, or in substitution of, any existing securities, if the parties directed or authorized as aforesaid see fit, whereupon such existing securities shall be delivered up to be cancelled. 46 V. c. 18, s. 283.

JURISDICTION OF COUNCILS.

282. The jurisdiction of every council shall be confined to the municipality the council represents, except where authority beyond the same is expressly given; and the powers of the council shall be exercised by by-law, when not otherwise authorized or provided for. 46 V. c. 18, s. 284.

NOTE.—See note to sec. 8, see ss. 288-290.

283. Every council may make regulations not specifically provided for by this Act, and not contrary to law, for governing the proceedings of the council, the conduct of its members, the appointing or calling of special meetings of the council, and generally such other regulations as the good of the inhabitants of the municipality requires, and may repeal, alter and amend its by-laws, save as by this Act restricted. 46 V. c. 18, s. 285.

NOTE.—Every council should have a by-law of rules and regulations, as, by acting in conformity therewith, no unseemly controversies are likely to take place as to Parliamentary usage, etc., for special meetings, see ss. 286, 287.

284. A municipal council shall be deemed and considered as always continuing and existing, notwithstanding any annual or other election of the members composing the same, and upon and after the annual or other election of the members thereof, and their having organized and held their first meeting as a council, every council may take up and carry on to completion all by-laws, reports and proceedings which had been begun or have been under consideration by the council, either in the then next preceding year or subsequent or prior thereto, and it shall not be necessary to begin *de novo* with any by-law, proceeding, report, matter or thing entertained by the council in such preceding year, or subsequent or prior thereto, as aforesaid. 49 V. c. 87, s. 48.

285. In all cases where, under the provisions of this Act, or of any other Act, any council or the board of commissioners of police, in any city, or either of them, is or are authorized to pass by-laws for licensing any trade, calling, business, or profession, or the person carrying on or engaged in any such trade, calling, business, or profession, the council and the board of commissioners of police, respectively, shall have the power to pass by-laws for fixing the sum to be paid for such license, for exercising any such trade, calling, business, or profession, in the municipality, and enforcing the payment of the license fee, and determining the time the license shall be in force. 46 V. c. 18 s. 286.

286. No council shall have the power to give any person an exclusive right of exercising, within the municipality, any trade or calling, or to impose a special tax

on any person exercising the same, or to require a license to be taken for exercising the same, unless authorized or required by statute so to do; but the council may direct a fee, not exceeding \$1, to be paid to the proper officer for a certificate of compliance with any regulations in regard to such trade or calling. 46 V. c. 18, s. 287.

287. A council may grant exclusive privileges in any ferry which may be vested in the corporation represented by such council, other than a ferry between a Province of the Dominion of Canada and any British or foreign country, or between two Provinces of the Dominion. 46 V. c. 18, s. 288. *See* B. N. A. Act, 1867, s. 91, (19); cap. 117; and *sec.* 495 (4), *post.*

BY-LAWS.

288. Every by-law shall be under the seal of the corporation, and shall be signed by the head of the corporation, or by the person presiding at the meeting at which the by-law has been passed, and by the clerk of the corporation. 46 V. c. 18, s. 289.

NOTE.—*See* ss. 8, 282.

289. A copy of any by-law, written or printed, without erasure or interlineation, and under the seal of the corporation, and certified to be a true copy by the clerk, and by any member of the council, shall be deemed authentic, and be received in evidence in any Court of Justice without proof of the seal or signatures, unless it is specially pleaded or alleged that the seal or one or both of the signatures have been forged. 46 V. c. 18, s. 290.

NOTE.—But *see* *sec.* 332.

290. The facts required by this Act to be recited in any by-law which requires the approval of the Lieutenant-Governor in Council, shall, before receiving such approval, be verified by solemn declaration, by head of the Council, and by the treasurer and clerk thereof, and by such other person, and on such other evidence, as to the Lieutenant-Governor in Council satisfactorily proves the facts so recited; or in case of the death or absence of such municipal officer, upon the declaration of any other member of the council, whose declaration the Lieutenant-Governor in Council may accept. 46 V. c. 18, s. 291.

291. In case a person rated on the assessment roll of a municipality, or of any locality therein, objects to the passing of a by-law, the passing of which is to be preceded by the application of a certain number of the rateable inhabitants of such municipality or place, he shall, on petitioning the council, be at liberty to attend in person, or by counsel or solicitor, before the council at the time at which the by-law is intended to be considered, or before a committee of the council appointed to hear evidence thereon, and may produce evidence that the necessary notice of the application for the by-law was not given, or that any of the signatures to the application are not genuine, or were obtained upon incorrect statements, and that the proposed by-law is contrary to the wishes of the persons whose signatures were so obtained, and that the remaining signatures do not amount to the number, nor represent the amount of property, necessary to the passing of the by-law. 46 V. c. 18, s. 292.

NOTE.—Upon petition, as provided by this section, a ratepayer is vested with a statutory privilege of addressing the council or a committee thereof, without its formal concurrence. See also sec. 546, s-s. 8.

292. If the council is satisfied upon the evidence that the application for the by-law did not contain the names of a sufficient number of persons, whose names were obtained without fraud and in good faith, and who represent the requisite amount of property, and are desirous of having the by-law passed, or if the council is satisfied that the notice required by law was not duly given, the council shall not pass the by-law. 46 V. c. 18, s. 293.

VOTING ON BY-LAWS.

293. In case a by-law requires the assent of the electors of a municipality before the final passing thereof, the following proceedings shall be taken for ascertaining such assent, except in cases otherwise provided for :

1. The council shall, by the by-law, fix the day and hour for taking the votes of the electors, and such places in the municipality as the council shall, in their discretion, deem best for the purpose, and where the votes are to be taken

at more than one place, shall name a deputy-returning officer to take the votes at every such place; and the day so fixed for taking the votes shall not be less than three, nor more than five, weeks after the first publication of the proposed by-law.

2. The council shall, before the final passing of the proposed by-law, publish a copy thereof in some public newspaper published either within the municipality or in the county town, or in a public newspaper published in an adjoining local municipality, as the council may designate by resolution, and the publication shall, for the purpose aforesaid, be continued in at least one number of such paper each week for three successive weeks, and the council shall put up a copy of the by-law at four or more of the most public places in the municipality. 46 V. c. 18, s. 294 (1, 2).

3. Appended to the copy so published and posted shall be a notice, signed by the clerk of the council, stating that the copy is a true copy of a proposed by-law which has been taken into consideration, and which will be finally passed by the council in the event of the assent of the electors being obtained thereto, after one month from the first publication in the newspaper, stating the date of the first publication, and that at the hour, day and place or places therein fixed for taking the votes of the electors, the polls will be held. 46 V. c. 37, s. 25.

NOTE.—See note to sec. 19; also ss. 329, 571.

294. Forthwith after the day has been fixed as aforesaid, for taking the votes of electors with respect to the by-law, the clerk of the municipal council which proposes the by-law, shall cause to be printed, at the expense of the municipality, such a number of ballot papers as will be sufficient for the purposes of the voting. 46 V. c. 18, s. 295.

295. The ballot papers shall be according to the form of Schedule J to this Act. 46 V. c. 18, s. 296.

296. The council shall, by the by-law, fix a time when, and a place where, the clerk of the council which proposed the by-law shall sum up the number of votes given for and against the by-law, and a time and place for the appointment of persons to attend at the various polling places, and at the final summing up of the votes by the

clerk respectively, on behalf of the persons interested in, and promoting or opposing the passage of, the by-law respectively. 46 V. c. 18, s. 297.

297. At the time and place named, the head of the municipality shall appoint, in writing signed by him, two persons to attend at the final summing up of the votes, and one person to attend at each polling place on behalf of the persons interested in and desirous of promoting the passing of the by-law, and a like number on behalf of the persons interested in and desirous of opposing the passing of the by-law. 46 V. c. 18, s. 298.

298. Before any person is so appointed he shall make and subscribe, before the head of the municipality, a declaration in the form of Schedule K to this Act, that he is interested in, and desirous of promoting, or opposing (as the case may be), the passing of the by-law. 46 V. c. 18, s. 299.

299. Every person so appointed before being admitted to the polling place or the summing up of the votes, as the case may be, shall produce to the deputy-returning officer, or clerk of the municipality, as the case may be, his written appointment. 46 V. c. 18, s. 300.

300. In the absence of any person authorized as aforesaid to attend at a polling place, or at the final summing up of the votes, any elector in the same interest as the person so absent may, upon making and subscribing, before the deputy-returning officer at the polling place, or the clerk of the municipality, a declaration in the form of Schedule K to this Act, be admitted to the polling place to act for the person so absent. 46 V. c. 18, s. 301.

301. During the time appointed for polling no person shall be entitled or permitted to be present in any polling place, other than the officers, clerks and persons or electors authorized to attend as aforesaid at the polling place. 46 V. c. 18, s. 302.

302.—(1) The clerk of the municipality, on the request of any elector entitled to vote at one of the polling places, who has been appointed deputy-returning officer or poll clerk, or who has been named as the person to attend at a polling place, other than the one where he is entitled to vote, shall give to such elector a certificate that such deputy-returning officer, poll clerk, or person is entitled to

vote for or against the by-law, at the polling place where such elector is stationed during the polling day, and the certificate shall also state the property or other qualification in respect to which he is entitled to vote.

(2) On the production of the certificate, the deputy-returning officer, poll clerk, or person shall have the right to vote at the polling place where he is stationed during the polling day, instead of at the polling place of the ward, or polling subdivision where he would otherwise have been entitled to vote; and the deputy-returning officer shall attach the certificate to the voters' list; but no such certificate shall entitle such elector to vote at such polling place, unless he has been actually engaged as deputy-returning officer, poll clerk, or person during the day of polling.

(3) In case of a deputy-returning officer voting at the polling place at which he is appointed to act, the poll clerk, or in the absence of the poll clerk, anyone authorized to be present at the polling place, may administer to the deputy-returning officer the oath required to be taken of voters qualified to vote on the by-law. 46 V. c. 18, s. 308.

303. In the case of municipalities which are divided into wards or polling subdivisions, the clerk of the municipality shall, before the poll is opened, prepare and deliver to the deputy-returning officer for every ward or polling subdivision, a voters' list in the form of Schedule C to this Act, containing the names, arranged alphabetically, of all persons appearing by the then last revised assessment roll to be entitled, under the provisions of sections 308 and 309 of this Act, to vote in that ward or polling subdivision, and shall attest the said list by his solemn declaration in writing under his hand. 46 V. c. 18, s. 304.

304. In the case of municipalities which are not divided into wards or polling subdivisions, the clerk shall provide himself with the necessary ballot papers, the materials for marking ballot papers, printed directions to voters, and a list of electors for the municipality similar to the list mentioned in the preceding section; and the clerk shall perform the like duties with respect to the whole municipality as are imposed upon a deputy-returning officer in respect of a ward or polling subdivision. 46 V. c. 18, s. 305.

305. At the day and hour fixed as aforesaid, a poll shall be held and the vote shall be taken by ballot. 46 V. c. 18, s. 306.

306. The proceedings at the poll, and for and incidental to the same, and the purposes thereof, shall be the same, as nearly as may be, as at municipal elections, and all the provisions of sections 120 to 176 inclusive, of this Act, so far as the same are applicable, and except so far as is herein otherwise provided, shall apply to the taking of votes at the poll, and to all matters incidental thereto. 46 V. c. 18, s. 307.

307. The printed directions to be delivered to the deputy-returning officers shall be in the form of Schedule L to this Act. 46 V. c. 18, s. 308.

308.—(1) Every ratepayer, being a man, unmarried woman or widow, shall be entitled to vote on any by-law requiring the assent of the electors, who, at the time of tender of the vote, is of the full age of twenty-one years, and a natural born or naturalized subject of Her Majesty, and who has neither directly nor indirectly received, nor is in expectation of receiving, any reward or gift for the vote which he tenders, and who is at the time of the tender a freeholder in his own right of real property within such municipality, of sufficient value to entitle him to vote at any municipal election, and is rated on the last revised assessment roll as such freeholder, provided such person is named or purported to be named in the voters' list of electors.

(2) In case of a new municipality in which there has not been any assessment roll, the qualification of being named on the list and of being rated on the roll shall be dispensed with, but in such case the person offering to vote shall not be entitled to vote, unless he possesses the other qualifications above mentioned, and has, at the time of tender of his vote, sufficient property to have entitled him to vote if he had been rated for such property, and unless at such time he names such property to the deputy-returning officer; and the deputy-returning officer shall note such property in the voters' list opposite the voter's name, at the request of any one entitled to vote on such by-law. 46 V. c. 18, ss. 309, 311.

309.—(1) Every ratepayer shall be entitled to vote on any by-law requiring the assent of the electors, who is a man, unmarried woman or widow, and at the time of

tender of the vote is of the full age of twenty-one years, and a natural born or naturalized subject of Her Majesty, and who has neither directly nor indirectly received, nor is in expectation of receiving, any reward or gift for the vote which he tenders, and is resident within the municipality for which the vote is taken for one month next before the vote, and who is, or whose wife is, a leaseholder of real property within the municipality of sufficient value to entitle him to vote at a municipal election, and who is rated on the last revised assessment roll therefor, and which lease extends for the period of time within which the debt to be contracted or the money to be raised by the by-law is made payable; in which lease the lessee has covenanted to pay all municipal taxes in respect of the property leased, and which person is named, or purported to be named, in the voters' list.

(2) The said provisions as to the lease extending for the period of time within which the debt to be contracted or the money to be raised by such by-law is made payable, shall not apply to a by-law respecting local improvements, under section 625 of this Act.

(3) In case of a new municipality in which there has not been any assessment roll, the qualification of being named on the list and of being rated on the roll, and of residence for one month, shall be dispensed with, but in such case the person offering to vote shall not be entitled to vote unless possessing the other qualifications above mentioned, and unless he is at the time of tender of his vote a resident of the municipality, and then has sufficient property to have entitled him to vote if he had been rated for such property, and unless at such time he names the property to the deputy-returning officer; and the deputy-returning officer shall note the property in the voters' list, opposite the voter's name, at the request of any one entitled to vote on such by-law. 46 V. c. 18, ss. 310, 311. 55 V. c. 43, s. 17.

309a. "Where a municipality is divided into wards, such ratepayer shall be so entitled to vote in each ward in which he has the qualification to entitle him to vote on such by-laws."

310. Any ratepayer offering to vote in respect of a freehold on such by-law, may be required by the deputy-returning officer, or any ratepayer entitled to vote on such

by-law, to make the following oath or affirmation, or any part thereof, or to the effect thereof, before his vote is recorded :

You swear that you are of the full age of 21 years, and a natural born (or naturalized) subject of Her Majesty :

That you are a freeholder in your own right (or your wife is a freeholder), within the Municipality (or ward, *as the case may be*) for which the vote is taken ;

That you have not voted before on the by-law in this Township (or Ward, *as the case may be*) ;

That you are, according to law, entitled to vote on the said by-law in the Ward for which this vote is taken ;

That you have not, directly or indirectly, received any reward or gift, nor do you expect to receive any, for the vote which you tender ;

That you are the person named, or purporting to be named, in the voters' list of electors.

(In the case of an unmarried woman or widow claiming to vote). That you are unmarried (or a widow, *as the case may be*) ;

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote on this by-law or for loss of time, travelling expenses, hire of team, or any other service connected therewith ;

And that you have not, directly or indirectly, paid or promised anything to any person, either to induce him to vote, or refrain from voting ;

(In case of a new Municipality in which there has not been any assessment roll, then instead of referring to being named in the voters' list, the person offering to vote may be required to name, in the oath, the property in respect of which he claims to vote ;)

And no enquiries shall be made of any voter, except with respect to the facts specified in such oath or affirmation.
46 V. c. 18, s. 812. 55 V. c. 43, s. 18.

311. Any ratepayer offering to vote in respect of a leasehold, on such by-law, other than a by-law respecting local improvements, under section 625, may be required by the deputy-returning officer or any ratepayer entitled to vote on such by-law, to make the following oath or affirmation, or any part thereof, or to the effect thereof, before his vote is recorded :

You swear that you are of the full age of 21 years, and a natural born or naturalized subject of Her Majesty ;

That you have been a resident within the Municipality for which the vote is taken, for one month next before the vote ;

That you are (or your wife is), a leaseholder within this Municipality (or Ward, *as the case may be*), and the lease extends for the period of time within which the debt to be contracted or the money to be raised by the by-law now submitted to the ratepayers is made payable, and that you have (or the lessee in said lease has) covenanted in such lease to pay all municipal taxes ;

That you have not before voted on the by-law in this Township (or Ward, *as the case may be*);

That you are, according to law, entitled to vote on the said by-law in the Ward for which this vote is taken;

That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender;

That you are the person named, or purporting to be named, in the voters' list;

(In the case of an unmarried woman or widow claiming to vote). That you are unmarried (*or a widow, as the case may be*);

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote on this by-law, or for loss of time, travelling expenses, hire of team, or any other service connected therewith;

And that you have not directly or indirectly paid or promised anything to any person, either to induce him to vote, or refrain from voting;

(In case of a new municipality in which there has not been any assessment roll, then instead of swearing to residence for one month next before the vote, and of referring to being named in the voters' list, the person offering to vote may be required to name in the oath the property in respect of which he claims to vote, and that he is a resident of such Municipality;)

And no enquiries shall be made of a voter, except with respect to the facts specified in the oath or affirmation.
46 V. c. 18, s. 813. 55 V. c. 48, s. 19.

312. A ratepayer offering to vote in respect of a leasehold, on a by-law respecting local improvements, under section 625, may be required by the deputy-returning officer, or any ratepayer entitled to vote on the by-law, to make the following oath or affirmation, or any part thereof, or to the effect thereof, before his vote is recorded:

You swear that you are of the full age of 21 years, and a natural born (or naturalized) subject of Her Majesty;

That you have been a resident within the Municipality for which this vote is taken, for one month next before the vote;

That you are (*or your wife is*) a leaseholder within this Municipality (*or Ward, as the case may be*), and that you have (*or the lessee in said lease has*) covenanted in such lease to pay all municipal taxes;

That you have not before voted on the by-law in this Township (*or Ward, as the case may be*);

That you are, according to law, entitled to vote on the said by-law, in the Ward for which this vote is taken;

That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender;

That you are the person named, or purporting to be named, in the voters' list;

(In the case of an unmarried woman or widow claiming to vote.) That you are unmarried (*or a widow, as the case may be*);

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote on this by-law or for loss of time, travelling expenses, hire of team, or any other service connected therewith;

And that you have not directly or indirectly paid or promised anything to any person, either to induce him to vote or refrain from voting;

(In case of a new Municipality in which there has not been any assessment roll, then instead of swearing to residence for one month next before the vote, and of referring to being named in the voters' list, the person offering to vote may be required to name in the oath the property in respect of which he claims to vote, and that he is resident of such Municipality :)

And no enquiries shall be made of a voter, except with respect to the facts specified in the oath or affirmation. 46 V. c. 18, s. 314. 55 V. c. 48, s. 20.

313. The written statement to be made by every deputy-returning officer at the close of the polling shall be made under the following heads:

- (a) Name or number of ward or polling subdivision, and of the municipality, and the date of the polling;
- (b) Number of votes for and against the by-law;
- (c) Rejected ballot papers. 46 V. c. 18, s. 315.

314. The deputy-returning officer shall take a note of any objection made by any person authorized to be present, to any ballot paper found in the ballot box, and shall decide any question arising out of the objection. Each objection to a ballot paper shall be numbered, and a corresponding number placed on the back of the ballot paper, and initialed by the deputy-returning officer. 46 V. c. 18, s. 316.

315. Every deputy-returning officer, at the completion of the counting of votes after the close of the poll shall, in the presence of the persons authorized to attend, make up into separate packets, sealed with his own seal, and the seals of such persons authorized to attend as desire to affix their seals, and marked upon the outside with a short statement of the contents of such packet, the date of the day of polling, the name of the deputy-returning officer, and of the ward or polling subdivision and municipality—

- (a) The statement of votes given for and against the by-law and rejected ballot papers;
- (b) The used ballot papers which have not been objected to and have been counted;

- (c) The ballot papers which have been objected to, but which have been counted by the deputy-returning officer;
- (d) The rejected ballot papers;
- (e) The spoiled ballot papers;
- (f) The unused ballot papers;
- (g) The voters' list, with the oath in the form of Schedule G annexed thereto; a statement of the number of voters whose votes are marked by the deputy-returning officer, under the heads "Physical Incapacity" and "Unable to Read," with the declarations of inability; and the notes taken of objections made to ballot papers found in the ballot box. 46 V. c. 18, s. 317.

316. Every deputy-returning officer shall, at the close of the poll, certify, under his signature, on the voters' list, in full words, the total number of persons who have voted at the polling place at which he has been appointed to preside, and shall, before placing the voters' list in its proper packet as aforesaid, make and subscribe before the clerk of the municipality, a Justice of the Peace or the poll clerk, his solemn declaration that the voters' list was used in the manner prescribed by law, and that the entries required by law to be made therein were correctly made, which declaration shall be in the form of Schedule G to this Act, and shall, thereafter be annexed to the voters' list: he shall also forthwith return the ballot box to the clerk of the municipality. 46 V. c. 18, s. 318.

317. Every deputy-returning officer, upon being requested so to do, shall deliver to the persons authorized to attend at his polling place, a certificate of the number of votes given at the polling place for and against the by-law, and of the number of rejected ballot papers. 47 V. c. 18, s. 319.

318. The clerk, after he has received the ballot papers and statements before mentioned of the number of votes given in each polling place, shall, at the time and place appointed by the by-law, in the presence of the persons authorized to attend or such of them as may be present, without opening any of the sealed packets of ballot papers, sum up from such statements the number of votes for and against the by-law, and shall then and there declare the

result, and forthwith certify to the council under his hand, whether the majority of the electors voting upon the by-law have approved or disapproved of the by-law. 46 V. c. 18, s. 320.

319. Where the assent of the electors or of the rate-payers, or a proportion of them, is necessary to the validity of a by-law, the clerk or other officer shall not be entitled to give a casting vote. 46 V. c. 18, s. 321.

320.—(1) To render valid a by-law of a municipality for granting a bonus in aid of a railway, or in aid of any water-works or water company, or for taking stock in a railway company, or for lending money to such company, or for guaranteeing the payment of money borrowed by such company, the assent shall be necessary of one-third of all ratepayers who were entitled to vote, as well as of a majority of the ratepayers voting on the by-law.

(2) In such case, in addition to the certificate required by section 318 of this Act, the clerk, in case of the majority of votes being in favor of the by-law, shall further certify whether or not, as far as shewn by the voters' list, and assessment roll, such majority appears to be one-third of all the voters who were entitled to vote on the by-law.

(3) In case of dispute as to the result of the vote, the Judge shall have the same powers for determining the question as he has in any case of a scrutiny of the votes.

(4) The petition to the Judge may be by any elector, or by the Council; and the proceedings for obtaining the Judge's decision shall be the same, as nearly as may be, as in the case of a scrutiny. 46 V. c. 18, s. 322. 53 V. c. 50, ss. 7, 8. 55 V. c. 48, s. 21.

321.—(1) Every officer, clerk and person in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting at the polling place.

(2) No officer, clerk or other person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain, at the polling place, information as to the manner in which any voter at such polling place is about to vote or has voted.

(3) No officer, clerk or other person shall communicate at any time, to any person, any information obtained at a polling place as to the manner in which any voter at such polling place is about to vote or has voted.

(4) Every officer, clerk and person in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting, and shall not communicate, or attempt to communicate, any information obtained at such counting as to the manner in which any vote is given in any particular ballot paper.

(5) No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked the same, so as to make known to any person the manner in which he has marked his vote.

(6) Every person who acts in contravention of this section shall be liable, on summary conviction before a Stipendiary Magistrate, Police Magistrate, or two Justices of the Peace, to imprisonment for any term not exceeding six months, with or without hard labor. 46 V. c. 18, s. 323.

322. The clerk of the municipality, and every officer, clerk or person authorized to attend a polling place, or at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy in the presence, if he is the clerk of the municipality, of a Justice of the Peace, and if he is any other officer, or a clerk or an agent, in the presence of a Justice of the Peace, or the clerk of the municipality, or a deputy-returning officer; and such statutory declaration of secrecy shall be in the form given in Schedule M to this Act, or to the like effect. 46 V. c. 18, s. 324.

323. If within two weeks after the clerk of the council who proposed the by-law has declared the result of the voting, any elector applies upon petition to the County Judge after giving such notice of the application, and to such persons as the Judge directs, and shews by affidavit to the Judge reasonable grounds for entering into a scrutiny of the ballot papers, and the petitioner enters into a recognizance before the Judge in the sum of \$100, with two sureties (to be allowed as sufficient by the Judge upon affidavit of justification) in the sum of \$50 each, conditioned to prosecute the petition with effect, and to pay the party against whom the same is brought any costs which may be adjudged to him against the petitioner, the Judge may appoint a day and place, within the municipality, for entering into the scrutiny. 46 V. c. 18, s. 325.

324. At least one week's notice of the day appointed for the scrutiny, shall be given by the petitioner to such persons as the Judge directs, and to the clerk of the municipality. 46 V. c. 18, s. 326.

325. On the day and at the hour appointed, the clerk shall attend before the Judge with the ballot papers in his custody, and the Judge upon inspecting the ballot papers, and hearing such evidence as he may deem necessary, and on hearing the parties, or such of them as may attend, or their counsel, shall, in a summary manner, determine whether the majority of the votes given is for or against the by-law, and shall forthwith certify the result to the council. 46 V. c. 18, s. 327.

326. The Judge shall on the scrutiny possess the like powers and authority, as to all matters arising upon the scrutiny, as are possessed by him upon a trial of the validity of the election of a member of a municipal council; and in all cases costs shall be in the discretion of the Judge, as in the case of applications to quash a by-law, or he may apportion the costs as to him seems just. 46 V. c. 18, s. 328.

327. A by-law which is duly carried by the vote of the qualified electors, shall within six weeks thereafter be passed by the council. 46 V. c. 18, s. 329; 49 V. c. 37, s. 6.

NOTE.—46 V. c. 18, s. 329, reads as follows: "Any by-law which is carried by a majority of the duly qualified electors voting thereon shall within six weeks thereafter be passed by the Council which submitted the same. By 49 V. c. 37, s. 6, the last four words were struck out.

This section is now applicable not only to a by-law requiring a majority vote of electors voting thereon, but to such by-laws as may require the assent of a certain proportion of all ratepayers entitled to vote. See sec. 320; see sec. 505 "thirdly."

328. In case of a petition being presented, the by-law shall not be passed by the Council until after the petition has been disposed of; and the time which intervenes between the presenting of the petition and the final disposal thereof shall not be reckoned as part of the six weeks

within which the by-law is to be passed. 46 V. c. 18, s. 330.

329. Every promulgation of a by-law shall consist in the publication, through the public press, of a true copy of the by-law, and of the signature attesting its authenticity, with a notice appended thereto of the time limited by law for applications to the Courts to quash the same or any part thereof, and the publication aforesaid shall be in such public newspaper, published either within the municipality or in the county town, or in a public newspaper published in an adjoining local municipality, as the council may designate by resolution, and the publication shall, for the purpose aforesaid, be continued in at least one number of such paper, each week, for three successive weeks. 46 V. c. 18, s. 331.

NOTE.—“Promulgation” from Lat. Promulgatio, an open declaration, publication, or proclamation. See note to sec. 19; see also ss. 293, 571. Application to quash a by-law must be made within three months next after the third publication thereof. See sections 330 and 331; see, also, secs. 333, 334, 352.

330. The notice to be appended to every copy of the by-law for the purpose aforesaid, shall be to the effect following:

NOTICE.—The above is a true copy of a by-law passed by the municipal council of the _____ of _____ on the _____ day of _____ A.D. 18 _____ and approved by His Honour the Lieutenant-Governor in Council, on the _____ day of _____ A.D. 18 _____

(where such approval is required to give effect to the by-law): And all persons are hereby required to take notice that any one desirous of applying to have such by-law, or any part thereof, quashed, must make his application for that purpose to the High Court at Toronto, within three months next after the publication of this notice once a week for three successive weeks, in the newspaper called the _____ or he will be too late to be heard in that behalf.

46 V. c. 18, s. 332.

331. In case no application to quash a by-law is made within three months next after the third publication thereof and notice as aforesaid, the by-law, or so much thereof as is not the subject of any such application, or not quashed upon such application, so far as the same ordains, prescribes or directs anything within the proper competence of the council to ordain, prescribe or direct, shall, notwithstanding any want of substance or form, either in the by-

law itself, or in the time or manner of passing the same, be a valid by-law. 46 V. c. 18, s. 333.

332.—(1) Any resident of a municipality, or any other person interested in a by-law, order or resolution of the council thereof, may by motion apply to the High Court to quash the by-law, order or resolution in whole or in part for illegality, and the court may upon such motion quash the by-law, order or resolution accordingly in whole or in part for illegality, and may according to the result of the application award costs for or against the corporation;

(2) The notice of such motion shall be served at least 7 days before the day on which the motion is to be made;

(3) The by-law, order or resolution may upon such motion be proved by the production of a copy of the by-law, order or resolution, certified under the hand of the clerk, and under the corporate seal, and shewn by affidavit to have been received from the clerk. Provided, however, that before any such motion is made or entertained the applicant shall enter into a recognizance before the judge of the county court of the county in which the municipality whose by-law is the subject of the notice is situate, himself in the sum of \$50, and two sureties each in the sum of \$50, conditioned to prosecute the motion with effect. The judge may allow the said recognizance upon the sureties making proper affidavits of justification, and thereupon the same shall be filed in the High Court with the other papers relating to the motion. 55 V. c. 48, s. 22.

333. No application to quash a by-law, order or resolution, in whole or in part, shall be entertained unless the application is made within one year from the passing of the by-law, order, or resolution, except in the case of a by-law requiring the assent of electors or ratepayers, when the by-law has not been submitted to, or has not received the assent of, the electors or ratepayers, and in such case an application to quash the by-law may be made at any time. 46 V. c. 18, s. 335.

334. In case a by-law, by which a rate is imposed, has been promulgated in the manner hereinbefore specified, no application to quash the by-law shall be entertained after the expiration of three months from the promulgation. 46 V. c. 18, s. 336.

NOTE.—See sec. 352 and note to sec. 329.

335. Any by-law, the passage of which has been procured through, or by means of, any violation of the provisions of sections 209 and 210 of this Act shall be liable to be quashed upon an application to be made in conformity with the provisions hereinbefore contained. 46 V. c. 18, s. 337.

336.—(1) Before determining an application for the quashing of a by-law, upon the ground that any of the provisions of the said sections 209 and 210 of this Act have been contravened in procuring the passing of the same, and if it is made to appear to a Judge of the High Court that probable grounds exist for a motion to quash the by-law, the Judge may make an order for any inquiry to be held, upon such notice to the parties affected as the Judge may direct, concerning the said grounds, before the Judge of the County Court of the county in which the municipality which passed the by-law is situate, and require that upon the inquiry all witnesses, both against and in support of the by-law, be orally examined and cross-examined upon oath before the County Court Judge.

(2) The County Court Judge shall thereupon return the evidence so taken before him, to one of the Registrars of the High Court at Toronto; and after the return of the evidence, and upon reading the same, a Judge of the High Court may, upon notice to such of the parties concerned as he thinks proper, proceed to hear and determine the question; and if the grounds therefor appear to him to be satisfactorily established he may make an order for quashing the by-law, and he may order the costs attending the proceedings to be paid by the parties or any of them who have supported the by-law; and if it appears that the application to quash the by-law ought to be dismissed, the Judge may so order, and in his discretion award costs, to be paid by the persons applying to quash the by-law. 46 V. c. 18, s. 338.

337. After an order has been made by a Judge directing an inquiry, and after a copy of the order has been left with the clerk of the corporation of which the by-law is in question, all further proceedings upon the by-law shall be staid until after the disposal of the application in respect of which the inquiry has been directed; but if the matter is not prosecuted to the satisfaction of the Judge he may remove the stay of proceedings. 46 V. c. 18, s. 339.

338. In case a by-law, order, or resolution is illegal, in whole or in part, and in case anything has been done under it which, by reason of such illegality, gives any person a right of action, no such action shall be brought until one month has elapsed after the by-law, order or resolution has been quashed or repealed, nor until one month's notice in writing of the intention to bring the action has been given to the corporation, and every such action shall be brought against the corporation alone, and not against any person acting under the by-law, order or resolution. 46 V. c. 18, s. 340.

339. In case the corporation tenders amends to the plaintiff or his solicitor, if such tender is pleaded and (if traversed) proved, and if no more than the amount tendered is recovered, the plaintiff shall have no costs, but costs shall be taxed to the defendant, and set off against the verdict, and the balance due to either party shall be recovered as in ordinary cases. 46 V. c. 18, s. 341. See sec. 480.

BY-LAWS CREATING DEBTS.

340. Every municipal council may, under the formalities required by law, pass by-laws for contracting debts, by borrowing money or otherwise, and for levying rates for payment of such debts on the ratable property of the municipality for any purpose within the jurisdiction of the council, but no such by-law shall be valid, which is not in accordance with the following restrictions and provisions, except in so far as is otherwise provided in the next following two sections of this Act :

1. The by-law, if not creating a debt for the purchase of public works, shall name a day in the financial year in which the same is passed when the by-law is to take effect ; and if no day is named shall take effect on the day of the passing thereof ;

2. If not contracted for railways, harbor works or improvements, gas or water works, or for the purpose of public works according to the statutes relating thereto, or for the construction of sewers by the municipality, the purchase and improvement of parks or the erection of public school houses, the whole debt and the obligations to be issued therefor shall be made payable at twenty years at furthest from the date on which such by-law takes effect, and if a debt is contracted for railways, gas or water works,

or for the construction of sewers by the municipality, the purchase and improvement of parks or the erection of public school houses, the same shall in like manner be paid in thirty years at furthest from the date on which the by-law takes effect;

3. The by-law shall settle a certain specific sum to be raised annually for the payment of interest during the currency of the debentures; also, a certain specific sum to be raised annually for the payment of the debt; such sum to be such as will be sufficient with the estimated interest on the investments thereof, to discharge the debt when payable;

4. In settling the sum to be raised annually for the payments of the debt, the rate of interest on investments shall not be estimated at more than five per cent. per annum, to be capitalized yearly;

5. The by-law shall provide that such annual sum shall be raised and levied in each year by a special rate, sufficient therefor, on all the ratable property in the municipality; or, if the by-law is for a work payable by local assessment, on all the property ratable under the by-law or per foot frontage, as the case may be;

6. The by-law, unless it is for a work payable by local assessment, shall recite:

- (a) The amount of the debt which the new by-law is intended to create, and, in some brief and general terms, the object for which it is to be created;
- (b) The total amount required by this Act to be raised annually by special rate for paying the new debt and interest;
- (c) The amount of the whole ratable property of the municipality according to the last revised, or revised and equalized assessment roll;
- (d) The amount of the existing debenture debt of the municipality, and how much (if any), of the principal or interest is in arrear. 46 V. c. 18, s. 342.

NOTE.—For the purchase of public works see sec. 349-350.

AN ACT RESPECTING THE ASSESSMENT OF PROPERTY.

(*R. S. O. 1887, with amendments, 1888, 1889, 1890, 1891,
1892.*)

(CONTINUED.)

NOTE.—The Assessment Amendment Act, 1892, contains the following amendments to the consolidation of the Act contained in Vol. I. of the Journal up to sec. 140:

Sub-section 23 of sec. 7 is amended by striking out all the words after "earnings" in the second line, page 28, and substituting the words "to the amount of \$700" in lieu thereof.

Sub-section 24 of said section is amended by striking out all after the figures \$400 in the second line, page 28, and adding the words "derived from any source other than personal earnings."

Sub-section 24*a* is added to said section 7 as follows:

24*a*. Provided, nevertheless, that no person shall be exempted for or in respect of income for a sum greater than \$700, whether derived from personal earnings or from other sources of income, or from the two combined.

A new section 7 (*a*) is added as follows:

7 (*a*)—(1) In any town or incorporated village in which there are lands held and used as farm lands only, and in blocks of not less than five acres by any one person, such lands shall be assessed as farm lands.

(2) When such lands are not benefited to as great an extent by the expenditure of moneys for and on account of public improvements of the character hereinafter mentioned in the municipality as other lands therein generally,

the council of such town or incorporated village shall annually, at least two months before striking the rate of taxation for the year, pass a by-law declaring what part or parts of the said lands so held and used as farm lands only, shall be exempt or partly exempt from taxation for the expenditure of the municipality incurred for water works, the making of sidewalks, the construction of sewers or the lighting and watering of the streets, regard being had in determining such exemption to any advantage, direct or indirect, to such lands arising from such improvements. Provided nevertheless that nothing in this sub-section contained shall exempt or relieve any lands therein mentioned from the general rate for the payment of any debenture debt contracted before the passing of this Act or that may be renewed in whole or in part.

(3) Any person claiming such exemption in whole or in part shall notify the council of the municipality thereof within one month after the time fixed by law for the return of the assessment roll and shall by some intelligible description indicate the land and quantity as nearly as may be in respect of which exemption is claimed.

(4) Any person complaining that the said by-law does not exempt or sufficiently exempt him or his said farm lands from taxation as aforesaid, may within 14 days after the passing thereof notify the clerk of the municipality of the intention to appeal against the provision of such by-law or any of them to the judge of the county court who shall have full power to alter or vary any or all of the provisions of the said by-law, and determine the matter of complaint in accordance with the spirit and intent of the preceding sub-section and of this Act.

(5) The provisions of sub-section 3 of section 68, as amended by *The Assessment Amendment Act, 1890*, sub-sections 4, 5 and 6 of section 68, and sections 69, 70, 71, 72, 73 and 74 of this Act, and section 7 of *The Assessment Amendment Act, 1889*, relating to appeals from a court of revision to the county judge and the amendment of the assessment roll thereon, shall so far as applicable, regulate and govern the procedure to be followed upon appeals to the county judge under this section and the amendment of the by-law thereon.

(6) Nothing in the last two preceding sub-sections contained, shall be deemed to prevent or affect the right of appeal to the county judge from the decision of a court of revision upon any appeal against an assessment.

Section 14, s-s. 3, column 2 is struck out, and the following substituted: "Column 2, name (surname first) and post office address of taxable party."

Column 8 of said section is amended by adding thereto the words "or residence in the case of manhood suffrage voters."

Section 16 is amended by adding the following:

"But when a married woman is assessed as owner, the name of the husband shall also be entered upon the assessment roll as an occupant." [See secs. 28-30 of *Assessment Act*.]

Section 28, page 154, is amended by adding s-s. (2) as follows:

(2) The owners or tenants of islands in the lakes not exceeding ten acres in extent and used with the houses erected thereon exclusively as summer resorts and upon which the owner or his tenants do not reside more than three months in the year and whereon no statute labour is done, shall not be rated for statute labour nor shall the owner or tenant thereof be liable for the performance of statute labour or for the payment of commutation thereof for or in respect of such property.

Section 29a (page 155), is amended by inserting the words "not owned by any municipal corporation" after the word "roads" in the first line thereof.

Section 29b, is amended by striking out the word "municipality" from the first line thereof, and inserting the words "other than a municipal corporation" after the word "person" in the second line thereof.

Section 31, (page 185) is repealed and the following substituted in lieu thereof:

31. Subject to the provisions of section 8 no person deriving an income from any trade, calling, office, profession or other source whatsoever not declared exempt by this Act shall be assessed for a less sum as the amount of his net personal earnings or income during the year then last

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past than the excess of such earnings or income over and above the exemptions specified in sub-sections 23 and 24 and 24a of section 7 of this Act, and such last year's income in excess of such exempted sums shall be held to be his net personal property unless such person has other personal property liable to assessment, in which case such excess of income and other personal property shall be added together and constitute his personal property liable to assessment.

Section 38 (page 187) is repealed and the following section substituted:

38. Every person who holds any appointment or office of emolument to which any salary, gratuity or other compensation is attached, or who is hired or regularly employed for wages, salary or other compensation, and performs the duties of such appointment or office, or the work in which he is so employed within a municipality in which he does not reside, shall be assessed in respect of such salary, gratuity, wages or other compensation at the place where he performs such duties or is so employed, and he shall not be assessable therefor at his place of residence, but if required shall procure a certificate of being otherwise assessed under the provisions of this section. But this section shall not apply to clergymen, county municipal officers, or to Government officers or officers of minor municipalities when the location of the office is fixed by law or regulation of the Government or municipality, but in such cases the salary, gratuity, wages or other compensation, shall be assessed against the incumbent of the office in the municipality wherein he resides.

Section 49, (page 191) is repealed, and the following substituted:

49. Subject to the provisions of sections 52 and 54 every assessor shall begin to make his roll in each year not later than the 15th day of February and shall complete the same on or before the 30th day of April and shall attach thereto the following affidavit or solemn declaration verified upon oath or solemn affirmation before the Clerk, a Justice of the Peace or a Commissioner in the form following:

I (*name and residence*), make oath and say (*or solemnly declare and affirm*),

1. That I have set down in the above assessment roll all the real property liable to taxation, situate in the municipality (or ward) of (*as the case may be*), and the true actual value thereof in each case;

2. According to the best of my information and judgment; and also that the said assessment roll contains a true statement of the aggregate amount of the personal property, or of the taxable income, of every party named on the said roll and that I have estimated and set down the same according to the best of my information and belief:

3. That I have entered thereon the names of all the resident householders, tenants and freeholders, and of all other persons who have required their names to be entered thereon, with the true amount of property occupied or owned, or of income received by each, and that I have not entered the name of any person whom I do not truly believe to be a householder, tenant, or freeholder or the *bona fide* occupier or owner of the property, or in receipt of the income set down opposite his name, for his own use and benefit; or otherwise entitled by law to be so entered;

4. That according to the best of my knowledge and belief, I have entered thereon the name of every person entitled to be so entered either under this Act or *The Manhood Suffrage Act*, or of any Act amending either of the said Acts, and that I have not intentionally omitted from said roll the name of any person whom I knew or had good reason to believe, was or is entitled to be entered thereon under any or either of the said Acts; and I further say, that the date of delivery or transmitting the notice required by section 47 of this Act is in every case truly and correctly stated in the said roll;

5. I further say, that I have not entered the name of any person at too low a rate in order to deprive such person of a vote, or at too high a rate in order to give such person a vote; and that the amount for which each such person is assessed upon the said roll truly and correctly appears in the said notice delivered or transmitted to him as aforesaid.

6. I further say, that I have not entered any name in the above roll, or improperly placed any letter or letters in column 4, opposite any name, with intent to give to any person not entitled to vote, a right of voting; and that I

have not intentionally omitted from the said roll the name of any person whom I believe entitled to be placed thereon, nor have I, in order to deprive any person of a right of voting, omitted from column 4 opposite the name of such person, any latter or letters which I ought to have placed there. 52 V. c. 40, s. 8 (6).

Sworn (or solemnly declared and affirmed) before me at _____, of _____, in the county of _____, this _____ day of _____ A.D. 18 _____.

Section 50, (page 192) is amended by striking out the words "certificates and" in the 3rd and 4th lines.

Section 58, (page 210) is amended by adding at the end thereof the following: "But no member of the Court shall act as a member thereof when an appeal is being heard respecting any property in which he is directly or indirectly interested.

Section 64, s-s. 15 (page 214), is amended by inserting immediately after the word "accordingly" in the fifth line the following words: and the Court may, in determining the value at which any land shall be assessed, have reference to the value which similar land in the vicinity is assessed.

Section 75, (page 218) is amended by inserting the words "within ninety days" in lieu of the words "without delay" in the third line, and by adding to the section the words "under a penalty of not less than ten dollars and not more than twenty dollars."

Section 79 is amended by adding thereto sub-section 9.

The costs incurred in the prosecution, and opposing of such appeal respectively, shall be borne and paid as directed by the County Judge or Court, as the case may be, and not otherwise, and shall be subject to taxation on the County Court scale by the clerk of the County Court of said County.

Section 123, sub-sec. 2, is amended by striking out all the words in the sub-sec. after the word "person" in the sixth line and substituting in lieu thereof the following:

"Or if so empowered by by-law of the municipality he shall leave with the person taxed or at his residence or domicile or place of business a written or printed notice specifying the amount of such taxes, and shall at the time of such demand or notice as the case may be, or immediately thereafter enter the date thereof on his collection roll opposite the name of the person taxed, and such entry shall be *prima facie* evidence of such demand or notice.

Section 124, s-s. 1, (page 323) is amended by inserting therein after the word "demand" in the third line the following: "Or after notice served pursuant to such by-law as aforesaid."

Sub-sec. 2 of said sec. 124, is amended by inserting after the word "made" in the first line the words "or notice served pursuant to such by-law."

140. The treasurer of every county shall furnish to the clerk of each municipality, except cities and towns, in the county, and the treasurer of every city and town shall furnish to the clerk of his municipality, a list of all the lands in his municipality in respect of which any taxes have been in arrear for the three years next preceding the 1st day of January in any year; and the said list shall be so furnished on or before the 1st day of February in every year, and shall be headed in the words following: "*List of lands liable to be sold for arrears of taxes in the year 18*;" and, for the purposes of this Act, the taxes for the first year of the three which have expired under the provisions of this Act, on any land to be sold for taxes, shall be deemed to have been due for three years, although the same may not have been placed upon a collector's roll until some month in the year later than the month of January. R. S. O. 1877, c. 180, s. 108.

141. The clerk of the municipality is hereby required to keep the said list, so furnished by the treasurer, on file in his office, subject to the inspection of any person requiring to see the same, and he shall also deliver to the assessor or assessors of the municipality, in each year, as

soon as such assessor or assessors are appointed, a copy of such list; and it shall be the duty of the assessor or assessors to ascertain if any of the lots or parcels of land contained in such list are occupied, or are incorrectly described, and to notify such occupants and also the owners thereof, if known, whether resident within the municipality or not, upon their respective assessment notices, that the land is liable to be sold for arrears of taxes, and enter in a column (to be reserved for the purpose) the words "*Occupied and Parties Notified*," or "*Not Occupied*," or incorrectly described as the case may be; and all such lists shall be signed by the assessor or assessors and returned to the clerk with the assessment roll, together with a memorandum of any error discovered therein, and the clerk shall file the same in his office for public use, and furnish forthwith to the County Treasurer a true copy of the same certified to by him under the seal of the corporation; and every such list, or copy thereof, shall be received in any Court, as evidence, in any case arising concerning the assessment of such lands. R. S. O. 1877, c. 180, s. 109. See s. 204, 55 V. c. 49, s. 20.

142. The assessors shall attach to each such list a certificate signed by them, and verified by oath or affirmation, in the form following:

"I do certify that I have examined all the lots in this list named; and that I have entered the names of all occupants thereon, as well as the names of the owners thereof, when known; and that all the entries relative to each lot are true and correct, to the best of my knowledge and belief."

R. S. O. 1877, c. 180, s. 110.

143.—(1) The clerk of each municipality shall examine the assessment roll when returned by the assessor, and ascertain whether any lot embraced in the said list last received by him from the treasurer pursuant to section 140, is entered upon the roll of the year as then occupied, or is incorrectly described; and shall forthwith furnish to the said treasurer a list of the several parcels of land which appear on the resident roll as having become occupied, or which have been returned by the assessor as incorrectly described.

(2) Except in the cases provided for by sections 52 and 54, on or before the 1st day of July in the then current year, the county treasurer shall return to the clerk of each local municipality other than a city or town, and every city or town treasurer shall return to the clerk of the city or

town, an account of all arrears of taxes due in respect of such occupied lands, including the percentage chargeable under section 157 of this Act.

(3) The clerk of each municipality shall, in making out the collectors' roll of the year, add such arrears of taxes to the taxes assessed against such occupied lands for the current year; and such arrears shall be collected in the same manner and subject to the same conditions as all other taxes entered upon the collector's roll. R. S. O. 1877, c. 180, s. 111.

144. If there is not sufficient distress upon any of the occupied lands, in the preceding section named, to satisfy the total amount of the taxes charged against the same, as well for the arrears as for the taxes of the current year, the collector shall so return it in his roll to the treasurer of the municipality, shewing the amount collected, if any, and the amount remaining unpaid, and stating the reason why payment has not been made. R. S. O. 1877, c. 180, s. 112.

145.—(1) The treasurer of every township and village shall, within fourteen days after the time appointed for the return and final settlement of the collector's roll and before the 8th day of April in every year, furnish the county treasurer with a statement of all unpaid taxes and school rates directed in the said collector's roll or by school trustees to be collected.

(2) Such return shall contain a description of the lots or parcels of land, a statement of unpaid arrears of taxes, if any, and of arrears of taxes paid, on lands of non-residents which have become occupied, as required by section 141 of this Act, and generally such other information as the county treasurer may require and demand, in order to enable him to ascertain the just tax chargeable upon any land in the municipality for that year; and the county treasurer shall not be bound to receive any such statement after the 8th day of April in each year. R. S. O. c. 1877, c. 180, s. 113.

146. In case it is found by the statement directed by the last preceding section to be made to the county treasurer, that the arrears of taxes upon the occupied lands of non-residents, directed by section 143 of this Act to be placed on the collector's roll, or any part thereof, remain in arrear, such land shall be liable to be sold for such

arrears, and shall be included in the next or ensuing list of lands to be sold by the county treasurer, under the provisions of section 160 of this Act, notwithstanding that the same may be occupied in the year when such sale takes place; and such arrears need not again be placed upon the collector's roll for collection. R. S. O. 1877, c. 180, s. 114; 55 V. c. 49, s. 21.

147. If the clerk of any municipality neglects to preserve the said list of lands in arrears for taxes, furnished to him by the treasurer, in pursuance of section 140, or to furnish copies of such lists, as required, to the assessor or assessors, or neglects to return to the treasurer a correct list of the lands which have come to be occupied, as required by section 143 of this Act, and a statement of the balances which remain uncollected on any such lots, as required by section 144 of this Act; or if any assessor or assessors neglect to examine such lands as are entered on each such list, and make returns in manner hereinbefore directed, every officer making such default shall, on summary conviction thereof before any two Justices of the Peace having jurisdiction in the county in which such municipality is situated, be liable to the penalties imposed by sections 225, 226 and 227 of this Act; all fines so imposed shall be recoverable by distress and sale of any goods and chattels of the party making default. R. S. O. 1877, c. 180, s. 115.

148.—(1) After the collector's roll has been returned to the treasurer of a township or village, and before such treasurer has furnished the statement to the county treasurer, mentioned in section 145, arrears of taxes may be paid to such local treasurer; but after the said statement has been referred to the county treasurer, no more money on account of the arrears then due shall be received by any officer of the municipality to which the roll relates.

(2) The collection of arrears shall thenceforth belong to the treasurer of the county alone, and he shall receive payment of such arrears, and of all taxes on lands of non-residents, and he shall give a receipt therefor, specifying the amount paid, for what period, the description of the lot or parcel, of land, and the date of payment, in accordance with the provisions of section 205 of this Act. R. S. O. 1877, c. 180, s. 116.

149. Any local municipality may, by by-law, remit, either in the whole or in part, any taxes now due or to

become due upon the lands of non-residents within such municipality, specifying the particular lands upon which the remission is made; and upon the passing of such by-law, it shall be the duty of the clerk forthwith to transmit a copy of the by-law to the treasurer or other officer having the collection of such arrears, who shall then collect only so much of the said taxes as are not remitted. R. S. O. 1877, c. 180, s. 117.

150. The treasurer shall not receive any part of the tax charged against any parcel of land unless the whole of the arrears then due is paid, or satisfactory proof is produced of the previous payment, or erroneous charge of any portion thereof; but if satisfactory proof is adduced to him that any parcel of land on which taxes are due has been subdivided, he may receive the proportionate amount of tax chargeable upon any of the subdivisions, and leave the other subdivisions chargeable with the remainder; and the treasurer may, in his books, divide any piece or parcel of land which has been returned to him in arrear for taxes, into as many parts as the necessities of the case may require. R. S. O. 1877, c. 180, s. 118.

151. The treasurer shall, on demand, give to the owner of any land charged with arrears of taxes, a written statement of the arrears at that date, and he may charge twenty cents for the search and statement on each separate lot or parcel not exceeding four, and, for every additional ten lots, a further fee of twenty cents; but the treasurer shall not make any charge for search to any person who forthwith pays the taxes. R. S. O. 1877, c. 180, s. 119; 55 V. c. 49, s. 22.

152. The treasurer of every county shall keep a separate book for each township and village, in which he shall enter all the lands in the municipality on which it appears from the returns made to him by the clerk and from the collector's roll returned to him, that there are any taxes unpaid, and the amounts so due; and he shall, on the 1st day of May in every year, complete and balance his books by entering against every parcel of land, the arrears, if any, due at the last settlement, and the taxes of the preceding year which remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date. R. S. O. 1877, c. 180, s. 120.

153. If two or more local municipalities, having been united for municipal purposes, are afterwards disunited, or if a municipality or part of a municipality is afterwards added to or detached from any county, or to or from any other municipality, the treasurer shall make corresponding alterations in his books, so that arrears due on account of any parcel or lot of land, at the date of the alteration, shall be placed to the credit of the municipality within which the land after such alteration, is situate. R. S. O. 1877, c. 180, s. 172, *part*.

154. If, at the yearly settlement to be made on the 1st day of May, it appears to the treasurer that any land liable to assessment has not been assessed, he shall report the same to the clerk of the municipality; thereupon, or if it comes to the knowledge of the clerk in any other manner that such land has not been assessed, the clerk shall, under the direction of the council, enter such land on the collector's roll next prepared by him thereafter, or on the roll of non-residents, as the case may be, as well for the arrears omitted of the year preceding only, if any, as for the tax of the current year: and the valuation of such land so entered shall be the average valuation of the three previous years, if assessed for the said three years, but if not so assessed, the clerk shall require the assessor or assessors for the current year to value such lands; and it shall be the duty of the assessor or assessors to value such lands when required, and certify the valuation in writing to the clerk; and the owners of such lands shall have the right to appeal to the council at its next or some subsequent meeting after the taxes thereon have been demanded, but within fourteen days after such demand, which demand shall be made before the 10th day of November; and the council shall hear and determine such appeal on some day not later than the 1st day of December. R. S. O. 1877, c. 180, s. 121.

NOTE.—The clerk in making up the collector's roll for any year, if he is aware by notification from the treasurer, or otherwise, that any property in the municipality has not been assessed, should report to the council and under its direction, shall, in addition, to the rates for such year, add the taxes which would have been payable on such property for the previous year and for such purpose shall

strike an average valuation for "the three *previous* years," if assessed for the said three years, but if not so assessed the clerk shall require the assessor or assessors to value such lands. The "three previous years" no doubt refers to the three years next immediately preceding the omitted assessment.

155. The county treasurer may correct any clerical error which he himself discovers, from time to time, or which may be certified to him by the clerk of any municipality. R. S. O. 1877, c. 180, s. 122.

156. If any person produces to the treasurer, as evidence of payment of any tax, any paper purporting to be a receipt of a collector, school trustee, or other municipal officer, he shall not be bound to accept the same until he has received a report from the clerk of the municipality interested, certifying the correctness thereof, or until he is otherwise satisfied that such tax has been paid. R. S. O. 1877, c. 180, s. 123.

157. If, at the balance to be made on the 1st day of May in every year, it appears that there are any arrears due upon any parcel of land, the treasurer shall add to the whole amount then due ten per centum thereon. R. S. O. 1877, c. 180, s. 124.

158. Where the county treasurer is satisfied that there is distress upon any lands of non-residents in arrear for taxes in a township or village municipality, he may issue a warrant under his hand and seal to the collector of such municipality, who shall thereby be authorized to levy the amount due, upon any goods and chattels found upon the land, in the same manner, and subject to the same provisions, as are contained in sections 124 to 130 inclusive of this Act, with respect to distresses made by collectors. R. S. O. 1877, c. 180, s. 125.

159. Unpatented land vested in or held by Her Majesty which may be hereafter sold, or agreed to be sold, to any person, or which may be located as a free grant, shall be liable to taxation from the date of such sale or grant; and any such land which had been already sold, or agreed to be sold, to any person, or had been located as a free grant, prior to the 1st day of January, 1863, shall be held to have been liable to taxation since the 1st day of January,

1863, and all such lands shall be liable to taxation thenceforward under this Act, in the same way as other land, whether any license of occupation, location ticket, certificate of sale, or receipt for money paid on such sale, has or has not been, or is or is not issued, and, in case of sale, or agreement for sale by the Crown, whether any payment has or has not been, or is or is not made thereon, and whether any part of the purchase money is or is not overdue and unpaid; but such taxation shall not in any way affect the rights of Her Majesty in such lands. R. S. O. 1877, c. 180, s. 126.

160. Where a portion of the tax on any land has been due for and in the third year, or for more than three years preceding the current year, the treasurer of the county shall, unless otherwise directed by a by-law of the county council, submit to the warden of such county a list in duplicate of all the lands liable under the provisions of this Act to be sold for taxes, with the amount of arrears against each lot set opposite to the same, and the warden shall authenticate each of such lists by affixing thereto the seal of the corporation and his signature, and one of such lists shall be deposited with the clerk of the county, and the other shall be returned to the treasurer, with a warrant thereto annexed, under the hand of the warden and the seal of the county, commanding him to levy upon the land for the arrears due thereon, with his costs. R. S. O. 1877, c. 180, s. 127; 52 V. c. 17, s. 3.

Section 160 of *The Assessment Act* shall not apply to the districts of Muskoka and Parry Sound.

NOTE.—See 52 V. c. 17.

161. The council of a county, city or town, shall have power from time to time to extend beyond the term of three years, the time for the enforced collection by sale of non-resident taxes by by-law passed for that purpose. R. S. O. 1877, c. 180, s. 128.

NOTE.—This power might with propriety be extended to any township adjoining a city.

162. It shall not be the duty of the treasurer to make inquiry before effecting a sale of lands for taxes, to ascertain whether or not there is any distress upon the land; nor shall he be bound to inquire into or form any opinion of the value of the land. R. S. O. 1877, c. 180, s. 129.

163. The treasurer shall not sell any lands which have not been included in the lists furnished by him to the clerks of the several municipalities in the month of January preceding the sale, nor any of the lands which have been returned to him as being occupied under the provisions of section 148 of this Act, except the lands, the arrears for which had been placed on the collection roll of the preceding year, and again returned unpaid and still in arrear in consequence of insufficient distress being found on the lands. R. S. O. 1877, c. 180, s. 190; 55 V. c. 49, s. 28.

164.—(1) The county treasurer shall prepare a copy of the list of lands to be sold, required by section 160 of this Act, and shall include therein, in a separate column, a statement of the proportion of costs chargeable on each lot for advertising, and for the commissions authorized by this Act to be paid to him, distinguishing the lands as patented, unpatented, or under lease or license of occupation from the Crown, and shall cause such list to be published four weeks in the *Ontario Gazette*, and once a week, for thirteen weeks, in some newspaper published within the county, and, in the case of a union, of counties, in each county of the union, if there be one published in each county, and if not, in such county or counties of the union in which a newspaper is published, or, if none be so published, in some other newspaper published in some adjoining county.

(2) Where a junior county is separated from a union of counties after a return is made to the treasurer of the united counties of lands in arrear for taxes, but such lands have not been advertised for sale by the treasurer of the united counties, or senior county, such treasurer shall return to the treasurer of the junior county a list of all the lands within the junior county returned as in arrear for taxes, and not advertised; and the treasurer and warden of the junior county shall have power respectively to take all the proceedings which treasurers and wardens, under this Act, can take for the sale and conveyance of lands in arrears for taxes; but, in case the lands in such junior county have been advertised by the treasurer of the united counties before such separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place. R. S. O. 1877, c. 180, s. 131.

165. The advertisement shall contain a notification, that unless the arrears and costs are sooner paid, the treasurer will proceed to sell the lands for the taxes, on a day, and at a place named in the advertisement. R. S. O. 1877, c. 180, s. 132.

166. The day of sale shall be more than ninety-one days after the first publication of the list. R. S. O. 1877, c. 180, s. 133.

167. The treasurer shall also post a notice similar to the said advertisement in some convenient and public place at the court house of the county, at least three weeks before the time of sale. R. S. O. 1877, c. 180, s. 134.

168. The treasurer shall, in each case, add to the arrears published, his commission or other lawful charges and the costs of publication. R. S. O. 1877, c. 180, s. 135. 55 V. c. 49, s. 24.

169. If, at any time appointed for the sale of the lands, no bidders appear, the treasurer may adjourn the sale from time to time. R. S. O. 1877, c. 180, s. 136.

170.—(1) If the taxes have not been previously collected, or if no person appears to pay the same at the time and place appointed for the sale, the treasurer shall sell by public auction so much of the land as is sufficient to discharge the taxes, and all lawful charges incurred in and about the sale, and the collection of the taxes, selling in preference such part as he may consider best for the owner to sell first; and, in offering or selling such lands, it shall not be necessary to describe particularly the portion of the lot which is to be sold, but it shall be sufficient to say that he will sell so much of the lot as may be necessary to secure the payment of the taxes due; and the amount of taxes stated in the treasurer's advertisement shall, in all cases, be held to be the correct amount due.

(2) If the treasurer fails at such sale to sell any land for the full amount of arrears of taxes due, he shall at such sale adjourn the same until a day then to be publicly named by him, not earlier than one week, nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the local papers in which the original sale was advertised, and on such day he shall sell such lands unless

otherwise directed by the local municipality in which they are situate, for any sum he can realize, and shall accept such sum as full payment of such arrears of taxes; but the owner of any land so sold shall not be at liberty to redeem the same, except upon payment to the county treasurer of the full amount of taxes due, together with the expenses of sale; and the treasurer shall account to the local municipality for the full amount of taxes paid. R. S. O. 1877, c. 180, s. 137.

(3) If the council of the local municipality, in which the same shall be situate, desire to become the purchasers of any lot to which sub-section 2 refers for the amount of the arrears of taxes thereon, it shall be lawful for such municipality to purchase the same if the price offered at such adjourned sale shall be less than the amount of such arrears, and if the council of the local municipality shall before the day of such adjourned sale have given notice in writing of the intention so to do, and it shall be the duty of the council of such local municipality to sell any lands which shall be so acquired within three years from the time when they shall be acquired. 50 V. c. 82, s. 7.

171. If the treasurer sells any interest in land of which the fee is in the Crown, he shall only sell the interest therein of the lessee, licensee, or locatee, and it shall be so distinctly expressed in the conveyance to be made by the treasurer and warden, and such conveyance shall give the purchaser the same rights in respect of the land as the original lessee, licensee or locatee enjoyed, and shall be valid, without requiring the assent of the Commissioner of Crown Lands. R. S. O. 1877, c. 180, s. 138.

172. If the purchaser of any parcel of land fails immediately to pay to the treasurer the amount of the purchase money the treasurer shall forthwith again put up the property for sale. R. S. O. 1877, c. 180, s. 139.

Certificate of Sale—Tax Deed.

173. The treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land, and what interest therein, have been so sold, or stating that the whole lot or estate has been so sold, and describing the same, and also stating the quantity of land, the sum for which it has

been sold, and the expenses of sale, and further stating that a deed conveying the same to the purchaser or his assigns, according to the nature of the estate or interest sold, with reference to sections 170 and 171 of this Act, will be executed by the treasurer and warden on his or their demand, at any time after the expiration of one year from the date of the certificate, if the land is not previously redeemed. R. S. O. 1877, c. 180, s. 140.

174.—(1) The purchaser shall, on the receipt of the treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the same from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value.

(2) The purchaser shall not be liable for damage done without his knowledge to the property during the time the certificate is in force. R. S. O. 1877, c. 180, s. 141.

175. From the time of a tender to the treasurer of the full amount of redemption money required by this Act, the purchaser shall cease to have any further right in, or to the land in question. R. S. O. 1877, c. 180, s. 142.

176. Every treasurer shall be entitled to two and one-half per centum commission upon the sums collected by him, as aforesaid, except that where the taxes against any parcel of land are less than \$10 the treasurer shall be entitled to charge in lieu of his commission 25 cents. R. S. O. 1877, c. 180, s. 143; 55 V. c. 49, s. 25.

177. Where land is sold by a treasurer, according to the provisions of section 164, and following sections of this Act, he may add the commission and costs which he is hereby authorized to charge for the services above mentioned, to the amount of arrears on those lands in respect of which such services have been severally performed, and in every case he shall give a statement in detail with each certificate of sale, of the arrears and costs incurred. R. S. O. 1877, c. 180, s. 144.

178. The treasurer shall, in all certificates and deeds given for lands sold at such sale, give a description of the part sold with sufficient certainty, and if less than a whole lot is sold, then he shall give such a general description as may enable a surveyor to lay off the piece sold on the ground; and he may make search, if necessary, in the registry office, to ascertain the description and boundaries of the whole parcel, and he may also obtain a surveyor's description of such lots, to be taken from the registry office or the government maps, where a full description cannot otherwise be obtained, such surveyor's fee not to exceed \$1; and the charge so incurred shall be included in the account and paid by the purchaser of the land sold, or the party redeeming the same. R. S. O. 1877, c. 180, s. 145.

179. Except as before provided, the treasurer shall not be entitled to any other fees or emoluments whatever for any services rendered by him relating to the collection of arrears of taxes on lands. R. S. O. 1877, c. 180, s. 146.

180. The owner of any land which may hereafter be sold for non-payment of arrears of taxes, or his heirs, executors, administrators or assigns, or any other person, may, at any time within one year from the day of sale, exclusive of that day, redeem the estate sold by paying or tendering to the county treasurer, for the use and benefit of the purchaser or his legal representatives, the sum paid by him, together with ten per centum thereon; and the treasurer shall give to the party paying such redemption money, a receipt stating the sum paid and the object of payment; and such receipt shall be evidence of the redemption. R. S. O. 1877, c. 180, s. 147.

AN ACT CONSOLIDATING AND REVISING THE PUBLIC SCHOOLS ACTS.

(54 Vic., 1891.)

(CONTINUED.)

PUBLIC SCHOOL BOARDS IN CITIES, TOWNS AND INCORPORATED VILLAGES.

97. Every board of public school trustees in cities, towns and incorporated villages, elected as provided by this Act shall be a corporation by the name of "The Public School Board" (prefixing to words "Public School Board" the name of the city, town or incorporated village for which such trustees are elected), and shall have and possess all the powers usually possessed by corporations, so far as the same are necessary for carrying out the purposes of this Act.

98. Any ratepayer resident in the municipality of the full age of twenty-one years shall be eligible to be elected a public school trustee, and every trustee shall continue in office until his successor has been elected and the new board organized. R. S. O. c. 225, ss. 97, 106.

NOTE.—A candidate for the office of school trustee does not require to be an elector in order to qualify.

99.—(1) In case any unincorporated village becomes incorporated, or in case a village, or town changes its corporate status, the trustees having jurisdiction over the school property situated within such village, or town, prior to its incorporation or prior to the change of its corporate status, shall exercise all the powers conferred by this Act upon the trustees of incorporated villages, towns or cities, until a new election of trustees is held, and such trustees shall call a meeting of the ratepayers of such incorporated

village, town or city within one month after the date of such incorporation for the election of a new public school board. (*Amended.*)

(2) In calling the meeting of the ratepayers of such newly incorporated village, town or city, the provisions of section 102 of this Act shall be complied with so far as the same are applicable. Where the trustees of the municipality whose corporate status was changed were elected by ballot, the provisions of section 103 of this Act shall apply to the election of trustees in such newly incorporated town or city. R. S. O. c. 225, s. 94.

NOTE.—When the area embraced in the newly incorporated village, town or city formed parts of two or more school sections, provision should be made in the Act of incorporation for holding the first election of a public school board.

100.—(1) For every ward into which any city, town or incorporated village is divided there shall be two school trustees, each of whom, after the first election of trustees, shall continue in office for two years, and until his successor has been elected and the new board organized.

(2) One of the trustees in each ward (to be determined by lot at the first meeting of trustees after their election, which determination shall be entered upon the minutes) shall retire from office at the time appointed for the next annual school meeting, and the other shall continue in office one year longer and then retire, after which one trustee shall be elected annually for each ward.

(3) When any town or incorporated village is annexed to a city, the town or incorporated village so annexed shall, for all the purposes of this Act, be deemed to be part of the city. R. S. O. c. 235, s. 95, 97.

NOTE.—“The time appointed for the next annual school meeting” would be two years after the first election, and one trustee for each ward would hold office for three years.

101.—(1) In every incorporated village not divided into wards there shall be six trustees, each of whom, after the first election for trustees, shall continue in office for two years and until his successor has been elected and the new board organized.

(2) Three of the trustees (to be determined by lot at the first meeting of trustees after their election, which determination shall be entered upon the minutes) shall retire from office at the time appointed for the next annual school election, and the other three shall continue in office one year longer and then retire; after which three trustees shall be elected annually. R. S. O. c. 225, s. 96.

NOTE.—See note to section 100.

102.—The annual and other elections of public school trustees, unless otherwise ordered, as provided by section 108 of this Act, shall be subject to the following provisions:

1. A meeting of the ratepayers for the nomination of candidates for the office of public school trustee, shall take place at noon on the last Wednesday in the month of December, annually, or if a holiday on the day following, at such place as shall from time to time be fixed by resolution of the public school board, and in municipalities divided into wards, in each ward thereof, if the board in its discretion thinks fit.

2. The public school board shall by resolution before the second Wednesday in December each year name the returning officer or officers to preside at the meeting or meetings for the nomination of candidates, and also for holding the election in case of a poll, and in case of the absence of such officer the chairman chosen by the meeting shall preside, and the public school board shall give at least six days' notice of such meeting. (*Amended.*)

3. If at such meeting only the necessary number of candidates to fill the vacant offices are proposed and seconded, the returning officer or person presiding, after the lapse of one hour, shall declare such candidates duly elected, and shall so notify the secretary of the public school board; but if two or more candidates are proposed for any one office and a poll in respect of any such office is demanded by any candidate or elector, the returning officer or chairman shall adjourn the proceedings for filling such office until the first Wednesday of the month of January then next, or if a holiday, then to the day following, when a poll or polls shall be opened at such place or places, and in each ward, where such exist, as shall be determined by resolution of the trustees.

4. The poll or polls shall be opened at the hour of ten of the clock in the forenoon, and shall continue open until

five o'clock in the afternoon, and no longer, and any poll may close at any time after eleven o'clock in the forenoon, when a full hour has elapsed without any vote having being polled.

5. In cities, towns, incorporated villages, and in townships where public school boards exist, the clerk of the municipality shall furnish to the public school board, within three days after request in writing, 'The Voters' List,' of such municipality, annexing thereto a list of the names of persons being supporters of separate schools, and also a list of the names, alphabetically arranged, of all ratepayers not being already upon 'The Voters' List.' R. S. O. c. 225, s. 99.

6. The public school board shall provide each polling place with the list aforesaid, and also a poll book; and, at every election at which a poll is demanded, the returning officer or person presiding, or his sworn poll clerk, shall enter in such book in separate columns the names of the candidates proposed and seconded at the nomination, and shall, opposite to such columns, write the names of the ratepayers offering to vote at the election, and shall, in each column on which is entered the name of a candidate voted for by a voter set the figure '1' opposite the voter's name, with the residence of the voter. R. S. O. c. 225, s. 101.

7. The returning officer or person presiding shall, on the day after the close of the election, return the poll book to the secretary or secretary-treasurer of the public school board, with his solemn declaration thereto annexed, that the poll-book has been correctly kept and contains a true record of the votes given at the polling place for which he was returning officer. R. S. O. c. 225, s. 98 (6).

8. The secretary-treasurer shall add up the number of votes for each candidate for any office, as appears from the poll book so returned, and shall declare elected, the candidate or candidates having the highest number of votes, and shall forthwith notify the candidates in writing of the number of votes polled for each of them respectively in said election. R. S. O. c. 225, s. 98 (7).

9. In case two or more candidates have an equal number of votes, the member of the board present at the first meeting thereof after such election and before the organization of the board, who is assessed highest as a ratepayer

on the last revised assessment roll, shall give a vote for one or more such candidates, so as to decide the election. R. S. O. c. 225, s. 98 (8).

NOTE.—Sub-section 5 provides for cases where rate-payers may have been omitted from the voters' list of the municipality for want of sufficient qualification as electors of the municipality or in consequence of their names appearing on the defaulters' list.

ELECTION BY BALLOT.

103.—(1) The board of public school trustees of any city, town, incorporated village or township may, by resolution, of which notice shall be given to the clerk of the municipality on or before the first day of October in any year, require the election of school trustees for such city, town, incorporated village, or township, to be held by ballot on the same day as municipal councillors, or aldermen are elected, as the case may be. In like manner any board of trustees may discontinue the use of the ballot in trustee elections on giving notice to the clerk of the municipality to that effect at the time hereinbefore mentioned, and thereafter elections for the purposes of this Act shall be conducted as provided in section 102.

(2) Where any board of trustees require elections to be held by ballot, and elections are so held, no change shall be made in the mode of conducting such election for a period of three years, and should the mode of conducting the elections by ballot be discontinued at any time, then the provisions of section 102 shall apply for a period of three years at least after such discontinuance.

(3) In every case in which notice is given as aforesaid requiring the election of public school trustees to be held by ballot, such election shall thereafter be held at the same time and place, and by the same returning officer or officers, and conducted in the same manner as the municipal nominations and elections of aldermen or councillors are conducted, and the provisions of *The Municipal Act* respecting the time for opening and closing the poll, the mode of voting, corrupt or improper practices, vacancies, and declarations of office shall *mutatis mutandis* apply to the election of public school trustees.

(4) A separate set of ballot-papers shall be prepared by the clerk of the municipality for all the wards or polling sub-divisions, containing the names of the candidates nominated for school trustees, of the same form as those used for councillors or aldermen except the substitution of the words "school trustee" for councillors or aldermen, as the case may be, on said ballot papers.

(5) In the list of qualified voters required by section 102 of this Act to be delivered to the returning officer by the clerk of the municipality before the opening of the poll, the clerk shall place opposite the names of any persons on the said list who are supporters of separate schools, the letters S. S. S. (signifying supporters of separate schools), and the returning officers shall not deliver to any such person a ballot paper for public school trustees. R. S. O. c. 225, s. 103.

(6) In case any objection is made to the right of any person to vote at any election of school trustees the deputy returning officer shall require the person whose right of voting is objected to, to make the following oath or affirmation:—

You swear (or solemnly affirm) that you are the person named, or purporting to be named, in the list (or supplementary list) of voters now shewn to you (*showing the list to voter*);

That you are a ratepayer;

That you are of the full age of twenty-one years;

That you are a public school supporter;

That you have not voted before at this election, either at this or any other polling place in this Ward or in this Municipality (*where the municipality is not divided into wards*) for School Trustee;

That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender at this election;

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected with this election;

And that you have not directly or indirectly paid or promised anything to any person either to induce him to vote or refrain from voting at this election: So help you God. R. S. O. c. 225, s. 105.

104. In case of any vacancy in the office of trustee of any public school board arising from any cause, the remaining trustees shall forthwith take steps to hold a new election in the manner provided by this Act for the annual

election of trustees to fill the vacancy so created and the person thereupon elected shall hold his seat for the residue of the term for which his predecessor was elected, or for which the office is filled. R. S. O. c. 225, s. 98 (11).

105. The Judge of the County Court, in case any complaint respecting the validity or mode of conducting the election of any trustee of a public school board in any municipality within his county, is made to him within twenty days after such election, shall receive and investigate such complaint, and shall thereupon, within a reasonable time, in a summary manner, hear and determine the same; and may by order cause the assessment rolls, collector's rolls, poll books, and any other records of the election to be brought before him, and may inquire into the facts on affidavit or affirmation, or by oral testimony, and cause such person or persons to appear before him as he may deem expedient, and may confirm the said election or set it aside, or order that some other candidate was duly elected; and the Judge may order the person found by him not to have been elected to be removed; and in case the Judge determines that any other person was duly elected, the Judge may order him to be admitted; and, in case the Judge determines that no other person was duly elected instead of the person removed, the Judge shall order a new election to be held, and shall report such decision to the secretary-treasurer of the public school board. R. S. O. c. 225, s. 98 (9).

106.—(1) The members of every board of school trustees in townships, cities, towns and incorporated villages shall hold their first meeting on the third Wednesday in January, or if a board of education, then on the first Wednesday in February, at the hour of seven o'clock in the afternoon, or at such other hour on the same day as may have been fixed by resolution of the former board, at the usual place of meeting of such board. R. S. O. c. 225, s. 107. (*Amended*).

(2) At the first meeting in each year of every public school board, the secretary of the board shall preside at the election of chairman, or, if there be no secretary, the members present shall appoint one of themselves to preside at such election, and the member so appointed to preside may vote as a member. R. S. O. c. 225, s. 108.

(3) In case of an equality of votes at the election of chairman, the member who is assessed as a ratepayer for

the largest sum on the last revised assessment roll shall have a second or casting vote in addition to his vote as a member. R. S. O. c. 225, s. 109.

(4) In the absence of the chairman any person appointed to act as chairman by the majority of those present shall preside, and the chairman or person so acting may vote with the other members on all questions, and any question on which there is an equality of votes shall be deemed to be negatived. R. S. O. c. 225, s. 111.

(5) A majority of the members of the board, when present at any meeting, shall constitute a quorum, and the vote of the majority of such quorum shall be necessary to bind the corporation. R. S. O. c. 225, s. 112.

DUTIES OF TRUSTEES.

107. It shall be the duty of the board of trustees of cities, towns and incorporated villages, and they shall have power:—

1. To appoint a secretary and treasurer or secretary-treasurer, and one or more collectors, if requisite, of such school fees or rate bills as the board may have authority to charge, and such other officers and servants of the board as they may deem expedient; R. S. O. c. 225, ss. 113-1 (*Amended*).

2. To fix the times and places of the board meetings, the mode of calling and conducting them, and of keeping a full and correct account of the proceedings of such meetings;

3. To provide adequate accommodation for all the children between the ages of five and sixteen years, resident in the municipality, as ascertained by the census taken by the municipal council for the next preceding year; provided always, such residents are not to include the children of persons on whose behalf a separate school or schools have been established under the provisions of *The Separate Schools Act*;

4. To purchase or rent school sites or premises, and to build, repair, furnish, and keep in order the school-houses and appendages, and to keep the well, closets and premises generally in a proper sanitary condition, lands, enclosures, and movable property, and procure registers in the prescribed form, suitable maps, apparatus, and prize books, and, if they deem it expedient, establish and maintain school libraries. R. S. O. c. 225, s. 113,—2,—3.

5. To determine the number, grade and description of schools (such as central, ward, or night schools) to be established and maintained; the teachers to be employed; the terms on which they are to be employed, and the amount of their remuneration; and to provide, as they may deem expedient, for children between four and seven years of age, kindergarten schools. R. S. O. c. 225, s. 113,—4,—13. (*Amended*).

6. To dismiss from the school any pupil who shall be adjudged so refractory by a majority of the trustees and the teacher that his presence in school is deemed injurious to the other pupils, and where practicable, to remove such pupil to an industrial school. R. S. O. c. 225, s. 113,—14.

7. To collect, at their discretion, from the parents or guardians of the pupils attending any public school under their charge, a sum not exceeding twenty cents per month, per pupil, to defray the cost of text-books, stationery and other school supplies; or, at their discretion, to purchase for the use of pupils attending such schools text-books, stationery and other school supplies at the expense of the corporation. R. S. O. c. 225, s. 113,—7. (*Amended*).

8. To appoint of their number, and under such regulations as they think proper, a committee for the special oversight and management of the schools under their charge, and to see that all such schools are conducted according to the regulations of the Education Department. R. S. O. c. 225, s. 113,—6. (*Amended*).

9. To constitute at their discretion one or more of the public schools to be a model school for the training of teachers. R. S. O. c. 225, s. 113,—10. (*Amended*).

10. To submit to the municipal council, on or before the first day of August, or at such time as may be required by the municipal council, an estimate of the expenses of the schools under their charge for the current year. R. S. O. c. 225, s. 113,—5. (*Amended*).

11. To submit all accounts, books and vouchers, to be audited by the municipal auditors, and it shall be the duty of such auditors to audit the same. R. S. O. c. 225, s. 113,—8.

12. To publish at the end of every year, in one or more of the public newspapers, or otherwise, the annual report of the auditors, and to prepare and transmit before the 15th of January, the annual report of the school to the Education Department. R. S. O. c. 225, s. 113,—11. (*Amended*).

18. To take possession and have the custody and safe keeping of all public school property which has been acquired or given for public school purposes in the section, including movable property, moneys or income given or acquired at any time for public school purposes, and to hold or apply the same according to the terms on which the same were acquired or received; and to dispose, by sale or otherwise, of any school site or school property not required by them in consequence of a change of school site, or other cause; to convey the same under their corporate seal, and to apply the proceeds thereof to their lawful school purposes, or as directed by this Act. R. S. O. c. 225, s. 40,—9.

108. Every public school board in a city, town or incorporated village, shall have power to take and acquire land for a school site or for enlarging school premises already held. In the event of any dispute between the owner of the land selected and the trustees, with regard to the price of such land, sections 67 to 72 of this Act shall apply. R. S. O. c. 225, s. 113,—12. *Part. (Amended).*

SCHOOL ASSESSMENT.

109.—(1) The municipal council of every township shall levy and collect by assessment, upon the taxable property of the public school supporters of the whole township, in the manner provided by this Act, and by the municipal and assessment Acts, the sum of \$100 at least for every public school therein in which a public school has been kept open the whole year exclusive of vacations. Where the public school has been kept open for six months or over, a proportionate amount of the said sum of \$100 at least shall be levied and collected by assessment upon the taxable property of the whole township. An additional sum of \$50 at least shall be levied and collected in a similar manner for every assistant teacher engaged for the whole year, and a proportionate amount if such assistant teacher is engaged for six months or over.

(2) In the case of union school sections the municipal council of each municipality of which the union school section is composed shall levy and collect upon the taxable property of the respective municipalities the said sum in the proportion fixed by the equalization provided under section 95 of this Act.

(8) The municipal council of the township shall collect from the taxable property in each section such other sums as may be required by the trustees thereof for school purposes. R. S. O. c. 225, s. 117. (*Amended*).

NOTE.—Under the provisions of this section, the trustees of a School Section levying the lowest possible rate for school purposes, will receive the same amount out of the general allowance as those sections where only the most competent teachers are employed. Moneys should be apportioned on a basis of salaries paid to teachers. See High School Act, section 43.

The following words, forming part of section 123 of chapter 225 of the Revised Statutes of 1887, repealed by *The Public Schools Act, 1891*, are hereby re-enacted:—
“Where the public school rate and the separate school rate are not the same, if the owner is compelled to pay a school rate in consequence of the default of the tenant to pay the same, he shall only be liable to pay the amount of the school rate of the schools to which in virtue of his right in this behalf he directed his money to be paid.”

To remove doubts, section 109 of *The Public Schools Act, 1891*, shall be construed to mean that union school sections composed of a part of a township, and any incorporated village or town shall not be included within the provisions of said section 109.

110. The municipal council of every city, town and incorporated village shall levy and collect upon the taxable property of the municipality, in the manner provided in this Act, and in the municipal and assessment Acts, such sums as may be required by the public school trustees for school purposes, subject to sections 116 and 117 of this Act. R. S. O. c. 225, s. 118.

111.—(1) The clerk of every municipality shall upon request, furnish the public school inspector with a statement of the assessed value of each school section as shewn by the revised assessment roll for that year. Such clerk shall be entitled to reasonable payment from the council for the above-mentioned services. R. S. O. c. 225, s. 116. (*Amended*).

(2) The clerk of every municipality shall, at the request of any board of trustees, furnish the board with a state-

ment shewing the several parcels or lots of land composing the school section for which they are trustees, the assessment of such parcel or lot and the amount of taxes entered on the collector's roll against each parcel of such lands. The cost of preparing such statement shall be paid by the board of trustees applying for the same. (*New*).

112. The council of every municipality may, in addition to any demand made by requisition of the public school trustees, raise by assessment such other sums as it may deem expedient for the establishment and maintenance of a public school library, or for aiding new or weak schools within such municipality, or for the support of model schools, or for supplementing teachers' salaries. R. S. O. c. 225, ss. 142, 208. (*Amended*).

113. The clerk of every municipality in which any separate school section or part of a section is situate, shall, not later than the first day of December in each year, make out and transmit to the county school inspector a list of the supporters of separate schools against whom any county rate for public school purposes has been erroneously placed upon the collector's roll shewing the amount so rated against each and the total amount so rated. The county inspector shall, before issuing his order for the payment of the county grant to the public school sections, deduct therefrom the amount so certified to him by the clerk of such municipality, and shall give the trustees of the separate school section an order on the township treasurer for the amount thereof, and it shall be the duty of such treasurer to pay over the same. R. S. O. c. 225, ss. 122, 144.

114. It shall be the duty of every county clerk to furnish the Minister of Education with a copy of the minutes of the council relating to school assessments and other educational matters and to transmit to the Minister, on or before the first day of March in each year, a certified copy in the form provided, of the abstract of the report of the auditors for the preceding year. R. S. O. c. 225, s. 128.

SCHOOL DEBENTURES.

115.—(1) On the application of any board of rural school trustees for the issue of debentures for the purchase of a school site or sites, for the erection of a school-house or school-houses, or any addition thereto, or for the purchase or erection of a teacher's residence, the municipal

council of the township shall pass a by-law for the said purpose, and shall forthwith issue a debenture or debentures to be repayable out of the taxable property of the school section concerned, and subject to the limitations contained in this Act, provided always the proposal for such loan has been submitted by the trustees to and sanctioned at a special meeting of the ratepayers of the section, called for the purpose. R. S. O. c. 225, s. 129.

(2) All applications for a loan, for the purposes herein mentioned, shall be made by the trustees of a union school section to the council of the municipality within which the school house or site of such union section is situated, and all debentures for the payment of such loan shall be issued by such municipality. Any other municipality or municipalities forming part of the union school section shall pay, on the requisition of the clerk of the municipality by which the debentures were issued, as they come due, its or their share of the loan, including interest, so made according to its or their liability for school purposes, as determined by section 95 of this Act. (*New*).

(3) Where application is made by a union section composed of a town or incorporated village and part of the adjoining township or townships and the school house is situated in such town or village, all applications for the issue of debentures for school purposes shall in such cases be subject to the provisions of sections 116 and 117 of this Act. (*New*).

(4) Notwithstanding any alteration which may be made in the boundaries of any school section, the taxable property situated in the school section at the time when such loan was effected, shall continue to be liable for the rate which may be levied by the township council for the repayment of the loan. R. S. O. c. 255, s. 191.

(5) The expenses of preparing and publishing any by-law or debentures under the said section 115 and all other expenses incident thereto, shall be paid by the school section on whose behalf such debentures were issued, and the amount of such expenses may be deducted from any school rates collected by the municipal council for such school section, anything in *The Public Schools Act* to the contrary notwithstanding. 55 V. c. 60, s. 3.

NOTE.—It is essential that the trustees should submit the proposal for a loan to a special meeting of the ratepayers of the section before applying to the

council for the issue of debentures. When sanctioned it becomes imperative for the council to grant the application ; but see section 119.

Provision should be made, that in case alteration is made in the boundary of a school section, where a debenture debt has been incurred, the property liable for the repayment of the loan should not be made liable for a debt of a similar nature until the original debt has been paid. (See Local Improvements, *Municipal Act*, sec. 624) "for the like purpose."

116.—(1) Where application is made by a township board of trustees, or by the trustees of any city, town or incorporated village for any of the purposes mentioned in the preceding section, and where the municipal council refuses to raise or borrow the sum required, then the question shall be submitted by the municipal council, if requested by the board of trustees, to the vote of the electors of the municipality who are supporters of public schools, in the manner provided by *The Municipal Act* for the creating of debts, and in the event of the assent of such electors being thereby obtained, then it shall be the duty of such council to raise or borrow such sum. R. S. O. c. 225, ss. 130, 133 (1).

(2) The municipal council may, if deemed expedient, without submitting the same to a vote of the ratepayers of such municipality, as required by *The Municipal Act*, for the creating of debts, pass a by-law for the purpose of raising or borrowing money, on the requisition of the public school board, for any of the purposes named in the preceding section. R. S. O. c. 225, s. 133 (2).

NOTE—Upon an application being made by a board of school trustees, the council may borrow the sum required or submit the matter to the electors. (See ss. 298—340, *et seq.*, *Municipal Act*.)

117. Any debenture issued by any municipality for school purposes may be in the form given by this Act, and for such term of years and for such amount as the council shall see fit, not exceeding thirty years, or the municipal

council may in its discretion make the principal and interest of such debt repayable by annual or other instalments, in the manner provided in *The Municipal Act*. R. S. O. c. 225, s. 135. (*Amended*).

118. All sums levied and collected by the municipal council of any township for school purposes shall be paid over to the secretary-treasurer of the board of trustees, without any deduction whatever, on or before the 15th day of December in each year. R. S. O. c. 225, s. 125.

NOTE.—But see 55 V. c. 60, s. 3 (5) amending section 115 of this Act.

No municipal by-law hereafter passed for exempting any portion of the ratable property of a municipality from taxation in whole or in part shall be held or construed to exempt such property from school rates of any kind whatsoever.

In all cases in which two municipal corporations are united by proclamation or by any Act of the Legislative Assembly, all the assets and liabilities of the school corporations of the minor municipality shall be assumed by the school corporation of the united municipality.

119. When, in the opinion of any rural school corporation it is not desirable to apply to the municipal council for the issue of debentures for any of the purposes mentioned in this Act, such trustees may, without a vote of the ratepayers of the section, require the municipal council to raise, by one yearly rate, such sums as may be necessary for the purchase of a school site, the erection, or purchase of a school house or teacher's residence. R. S. O. c. 225, s. 40,—8. (*Amended*).

NOTE.—Under the provisions of this Act the trustees constitute a corporation. (See notes to sections 3, 5, 570, *Municipal Act re councils*). Trustees may raise by one yearly rate without issuing debentures.

120. No township council shall levy or collect in any school section during any one year more than one school rate except for the purchase of a school site, or for the erection of a school-house. R. S. O. c. 225, s. 132.

121. Any rural school corporation may, with the consent of the ratepayers of their school section first had and obtained at a special meeting duly called for that purpose, by resolution authorize the borrowing from any municipal corporation of any surplus moneys derived from the Ontario municipalities fund, or from any other source, for such term and at such rate of interest as may be set forth in such resolution, for the purpose of purchasing a school site or school sites, or erecting a school-house or school-houses; and any sum or sums so borrowed shall be applied to that purpose, and to that only. R. S. O. c. 225, s. 134.

CHAPTER 57.

An Act Consolidating and Revising the High Schools Act.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

GENERAL.

1. This Act may be cited as "*The High Schools Act, 1891.*"

2. Where the words following occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears.

(1) "High Schools" shall include collegiate institutes, unless a contrary meaning appears. R. S. O. c. 226, s. 2.

(2) "Municipality" shall mean a city, town, incorporated village or township, but shall not mean a county.

(3) "County" shall also include counties united for municipal purposes. (*New.*)

(4) "District" shall mean the municipalities and parts of municipalities over which the high school board of trustees have jurisdiction as a corporation.

(5) "County pupils" shall mean pupils whose parents or guardians reside in the county in which the high school attended by such pupils is situated, but not within the limits of any high school district of such county. (*New.*)

(6) "Resident pupils" shall mean pupils whose parents or guardians reside in the district in which the high school attended by such pupils is situated. (*New.*)

(7) "Non-resident pupils" shall mean (a) pupils whose parents or guardians do not reside in the county, city or town separated from the county in which the high school

attended by such pupils is situated, or (b) pupils whose parents or guardians reside in a high school district of the county other than the district in which the high school attended by such pupils is situated.

(8) "Permanent improvements" shall mean such expenditure as may be necessary for the purchase or rental of a residence for the teacher, or for the purchase or rental of a school site and the erection or rental of a school house, or for the enlargement of both or either of them, or for permanently changing the system of heating and ventilation, the erection of fences, out-houses and gymnasium, or for the purchase of school furniture, maps and apparatus, library, and all other appliances required by the Regulations of the Education Department for High Schools. (*New*).

(9) "Maintenance" shall mean such expenditure as may be necessary for ordinary repairs in the teacher's residence or for the improvement of the grounds attached thereto, and for the salaries of teachers, officers and servants of the board and for conducting the entrance examination prescribed by this Act and for repairs to school buildings, outhouses, gymnasium, and fences and for the improvement of the school grounds, the repair of school furniture, and sundry expenses for ordinary school purposes and such annual additions to the library, apparatus, and other school appliances as may be required by the Regulations of the Educational Department for High Schools. (*New*).

3. The trustees of every high school district shall be a corporation by the name of "The—High School Board," (prefixing to the term "High School," or "Collegiate Institute," the name of the municipality within which such high school or collegiate institute is situated), and shall have and possess all the powers usually enjoyed by corporations, so far as the same are necessary for carrying out the purposes of this Act. The trustees of every high school shall hold office until their successors are appointed and the new board is organized. R. S. O. c. 226, s. 21 (1).

UNION OF PUBLIC AND HIGH SCHOOL BOARDS.

4.—(1) The union of the trustees of any public and high school for the joint management of the public and high schools of any municipality shall form one corporation under the name of "The Board of Education" for the city,

town, incorporated village or township of—(as the case may be). Such board shall have the powers of trustees of both public and high school trustees. A majority of the members shall form a quorum. R. S. O. c. 225, ss. 219, 220. (*Amended*).

(2) If at any meeting of a board of education called for that purpose a majority of all the members thereof vote in favor of the dissolution of the board such board shall be dissolved on and after the close of the current year. R. S. O. c. 225, s. 221. (*Amended*).

(3) In case any board of education is dissolved, the members of such board of education who were appointed on behalf of the high school shall be the board of trustees for such high school, to hold office the full term of their appointment or until changed according to the provisions of this Act. (*New*).

(4) In the case of such dissolution as aforesaid all school property held by the corporation for high school purposes shall be vested in the high school board of trustees, subject to any trust for public school purposes attached thereto, and any other property held or possessed jointly by the corporation before dissolution shall be divided as may be agreed upon by the trustees of the high school and public school respectively at a meeting called for that purpose. If no division is made within six months, then the division shall be made forthwith by the council of the municipality within which the high school is situated. R. S. O. c. 225, ss. 222, 223. (*Amended*).

(5) It shall not be lawful for the trustees of any high school to unite hereafter with the trustees of any public school to form a board of education. R. S. O. c. 225, s. 225.

5. All appointments, agreements, contracts, assessments, and rate-bills, heretofore duly made in relation to high schools existing at the passing of this Act, and all powers and duties connected therewith, shall continue in full force and effect, subject to the provisions of this Act. R. S. O. c. 226, s. 3.

HIGH SCHOOL DISTRICTS.

6.—(1) All high school districts in existence on the passing of this Act shall remain as then constituted until changed by the municipal council of the county by which

they were established, or until altered as is hereinafter provided, but nothing herein contained shall be construed as interfering with any suit or action now pending before any court of competent jurisdiction in which the validity of any high school district is called in question. R. S. O. c. 226, ss. 3, 5. (*Amended*).

(2) Where prior to the first day of January, 1878, the municipal council of any county did by by-law set apart and constitute any portion of the county as a separate district for high school purposes, the by-law, if not heretofore set aside, repealed, or quashed by any lawful authority in that behalf, shall, to all intents and for all purposes be considered and taken as valid, legal and binding, and the high school districts thereby constituted or intended to be constituted, shall also for all purposes be deemed, and taken as having been lawfully and validly constituted. 53 V., c. 72.

(3) Any right of appeal from any judge of the High Court of Justice or from a Divisional Court of the said High Court which any party or corporation had on the seventh day of April, 1890, with regard to the validity of any by-law establishing a high school district is hereby revived. (*New*).

7.—(1) On the petition of two-thirds of the ratepayers of any municipality contiguous to a high school district, or, on the petition of two-thirds of the ratepayers of any portion of a municipality contiguous to a high school district, the municipal council of such municipality shall, by by-law, unite the whole or such portion thereof as is set forth in the said petition, to such high school district for high school purposes, and such union shall take effect on the first of January next following the lapse of six months after the adoption of such by-law.

(2) In like manner and on like petition any municipality or any portion thereof forming part of a high school district, may withdraw from such high school district without the concurrence or any other act on the part of the other municipality or municipalities composing the high school district, but any by-law for such withdrawal shall not come into operation until the first day of January next following the lapse of six months from the passing thereof, and such withdrawal shall not relieve the municipality or any portion thereof so withdrawn from any rates legally imposed for the issue of debentures or from any other debts incurred

while such municipality or part thereof was attached to such high school district. R. S. O. c. 226, s. 38. (*Amended*).

(8) The certificate of the clerk of the municipality with respect to the number of ratepayers in such municipality, or part thereof, to which the petition heretofore mentioned is intended to refer, shall be final and conclusive. (*New*).

NEW HIGH SCHOOLS.

8.—(1) On or before the first of July in any year, the municipal council of any county may, subject to approval by the Lieutenant-Governor in Council, pass a by-law for the establishment of a new high school in any municipality, containing not fewer than one thousand inhabitants, according to the last municipal census, and the municipal council of any county may in like manner discontinue, at the end of the current calendar year, any high school already established.

(2) Where it is proposed to form a high school district to be composed of more municipalities than one, the county council may pass a by-law for the establishment of a high school in any incorporated village, although containing less than one thousand inhabitants, within the proposed district, but such by-law shall not be operative until it is shown to the satisfaction of the Lieutenant-Governor in Council that the adjoining municipalities have passed by-laws as provided by section 7 of this Act, for uniting with such incorporated village so as to constitute a district containing at least 3,000 inhabitants according to the last Dominion census.

(8) The municipal council of a city may establish as many high schools in such city as it may deem expedient, subject to the approval of the Lieutenant-Governor in Council. R. S. O. c. 226, ss. 7, 8, 9, 10. (*Amended*).

9.—(1) In every high school, instruction shall be given in the higher branches of a practical English and commercial education; the natural sciences, with special reference to agriculture; the elements of mathematics and physics, and the Latin, Greek, French and German languages, so far as to prepare students for matriculation into the University of Toronto. R. S. O. c. 226, s. 12.

(2) Preparatory schools or classes shall be abolished on and after the 1st of January next ensuing after the passage of this Act. (*New*).

10. On the report of the Minister of Education, and subject to the regulations of the Education Department, any high school having (1) suitable school buildings, out-buildings, grounds and appliances for physical training; (2) a library, containing standard books of reference in the subjects of the high school curriculum; (3) a laboratory, with the necessary chemicals, and apparatus for teaching the elements of the sciences; (4) a staff of at least five teachers, four being specialists, one in each of the following departments: Classics, Mathematics, Natural Science, Modern Languages, including English, and any one of the staff being a specialist in the Commercial Department; (5) such other assistants as will secure thorough instruction in all the subjects on the curriculum of studies approved by the Education Department for collegiate institutes; may be constituted a collegiate institute by order of the Lieutenant-Governor in Council. R. S. O. c. 226, s. 13. (*Amended*).

TRUSTEES.

11. Every high school corporation shall consist of at least six trustees. In the case of high schools situated in any municipality within the jurisdiction of the county, three of such trustees shall be appointed by the county council, and additional trustees shall be appointed by the municipalities composing the high school district as follows, that is to say:—

(1) Where a high school district is composed of one municipality the municipal council thereof shall appoint three additional trustees; where a high school district is composed of two municipalities, each municipality shall appoint two additional trustees; and where a district is composed of more than two municipalities, each municipality shall appoint one additional trustee. Any portion of a municipality assessed for \$50,000, included in a high school district, shall be considered a municipality for the purposes of this section. In every case one of the trustees appointed by the county council and one trustee in each municipality composing the high school district shall retire each year.

(2) Where a high school district is composed of a county, the county council shall appoint six trustees for such district, two of whom shall retire every year.

(3) In cities and in towns separated from the county, the municipal council thereof shall appoint six trustees for each of the high schools of such city or town; where the

high schools in a city do not exceed three in number, the municipal council shall appoint six trustees for each high school, and the trustees so appointed shall, with such additional trustees as are authorized by this Act, form one corporation. The municipal council of every city and town shall, by by-law, provide for the annual retirement of so many of the trustees appointed by the council as shall secure a complete rotation every three years.

(4) Where the trustees of any high school situated in a city or in a town separated from the county, notify the county clerk that such high school is open to county pupils on the same terms as high schools in the municipalities not separated from the county, the county council may, from time to time, appoint three additional trustees of and for such high school so long as the school is open to county pupils on the terms aforesaid.

(5) The separate school board of the city, town, or incorporated village in which a high school is situated, may appoint one trustee of and for such high school board, who shall hold office for one year, provided always, in the case of a board of education, that such trustee shall not take part in any of the proceedings affecting the public school. R. S. O. c. 226, ss. 14, 15, 16, 17, 20. (*Amended*).

(6) Except in the case of a board of education, the public school trustees of every city, town, or incorporated village in which a high school is situated, may appoint annually one trustee of and for such high school board, who shall hold office for one year. (*New*).

12.—(1) Vacancies arising from the annual retirement of trustees shall be filled at the first meeting thereof after being duly organized in each year by the municipal councils or by the boards of trustees empowered under this Act to make the appointments; and vacancies arising from death, resignation, or removal from the high school district or county, or otherwise, shall be filled forthwith by the municipal council or board of trustees having the right of appointment, and the person appointed to fill such vacancy shall hold office only for the unexpired term of the person whose place has become vacant. R. S. O. c. 226, s. 18. (*Amended*).

(2) Any resident ratepayer 21 years of age who is not a member of the municipal council of the municipality or county in which the high school is situated shall be quali-

fied to serve as a high school trustee, or as a member of a board of education. This sub-section shall not apply to any person now serving as a high school trustee or as a member of a board of education until his present term of office as trustee has expired.

First Meeting.

13.—(1) The first annual meeting of every board of trustees or board of education shall be held at the hour of seven o'clock in the afternoon of the first Wednesday of February or at such hour of the same day as may have been determined by resolution of the former board, and shall be organized by the election of a chairman, who shall be a member of the board, and a secretary and treasurer or secretary-treasurer. A majority of the board shall form a quorum.

(2) The secretary or secretary-treasurer for the previous year shall preside at the first meeting of the board until the chairman is elected, or if there be no secretary or secretary-treasurer then such member of the board shall preside as may be appointed for that purpose.

(3) In case of an equality of votes at the election of chairman, the trustee who is assessed for the largest sum on the last revised assessment roll shall have a second or casting vote, in addition to his vote as a member of the board.

(4) The chairman or presiding officer of the board may vote with the other members of the board on all questions, and any question on which there is an equality of votes shall be deemed to be negatived. R. S. O. c. 226, ss. 22, 23, 24. (*Amended*).

Duties of Trustees.

14. It shall be the duty of every board of trustees and they shall have power.

(1) To fix the times and places of the board meetings, the mode of calling and conducting them, and of keeping a full and correct account of the proceedings of such meetings;

(2) To take charge of the high school for which they have been appointed trustees, to keep the school buildings in proper repair, to provide from time to time suitable

furniture and equipment, and to see that the grounds and all the property of the corporation are duly protected ;

(3) To settle the amount to be paid by parents and guardians for each pupil attending the high school, subject to the provisions of this Act, to fix the times of payment, and, when necessary, to sue for and recover such amounts ;

(4) To give the necessary orders upon the treasurer of the board for the payment of the salaries of the teachers and other officers and servants of the high school, and for any other necessary expenses ;

(5) To apply to the municipal council or councils, liable under this Act, on or before the first day of August, for such sums as the board may require for the maintenance of the high school, or for any sums not exceeding five hundred dollars in one year for permanent improvements ;

(6) To take such security from the treasurer of the board as they may deem expedient ;

(7) To expel, on the report of the principal, any pupil whose conduct may be deemed injurious to the welfare of the school ; and to expel any pupil whose parents or guardians neglect or refuse to pay the tuition fees of such pupil after reasonable notice ;

(8) To appoint and remove such teachers, officers and servants as they may deem expedient, and to fix their salaries and prescribe their duties ;

(9) To provide adequate accommodation according to the regulations of the Education Department for all resident pupils, and in the case of high schools receiving aid from the county for county pupils also, subject to section 33 of this Act ;

(10) To certify to the treasurer of the county on or before the first of August in each year, the amount of fees collected from county pupils for the calendar year next preceding ;

(11) To see that the high school is conducted according to the provisions of this Act, and the regulations of the Education Department ;

(12) To prepare and transmit to the Minister of Education, the annual report before the 15th of January, and the semi-annual reports at the close of each half-year, in accordance with forms provided by the education Department. R. S. O. c. 226, s. 25. (*Amended*).

SITES FOR HIGH SCHOOLS.

15. A high school site shall not be selected in a township within a hundred yards of the garden, orchard, pleasure ground, or dwelling house of the owner without his consent. 51 V. c. 37, s. 2.

16. It shall be competent for the trustees to enlarge any existing high school site, as required by the regulations of the Education Department, provided no such enlargement shall be made in the direction of, or including an orchard, garden, pleasure ground or dwelling house, without the consent of the owner of the land required, unless the school site cannot be otherwise enlarged. 51 V. c. 37, s. 3.

17. If the owner of any land selected by the board of trustees of any high school for a site, or for high school purposes or for the enlargement of the high school premises, refuses to sell the same, or demands therefor a price deemed unreasonable by the trustees of such high school, then such owner and trustees shall each forthwith appoint an arbitrator, and the arbitrators thus appointed, together with the senior county Judge of the county in which the site in dispute is situated, or in the case of his inability to attend, any person appointed by him on his behalf as third arbitrator, or any two of them, shall appraise the damages for such land. 51 V. c. 37, s. 4.

18. If the owner of land selected for a school site, as provided by the preceding section, neglects or refuses to appoint an arbitrator, it shall be competent for the county Judge, with the arbitrator appointed by the trustees, to meet and determine the matter; and in such cases the county Judge shall have a second or casting vote, if he and such arbitrator do not agree. 51 V. c. 37, s. 5.

19. The arbitrators aforesaid, or any two of them, shall have the power to settle all claims or rights of incumbents, lessees, tenants, or other persons, as well as those of the owner, in respect of the land required for the purpose of the high school site, upon notice in writing to every such claimant, and after hearing and determining his claims or rights, and, upon tender of the amount of such damage to the owner or other person entitled thereto, or to any part of such amount, by the trustees, the land shall be taken and used for the purpose aforesaid. 51 V. c. 37, s. 6

20. If only a majority of the arbitrators appointed to decide any case arising under the authority of this Act are present at any lawful meeting, in consequence of the neglect or the refusal of the other arbitrator to meet them, it shall be competent for those present to make and publish an award upon the matter or matters submitted to them, or to adjourn the meeting for any period not exceeding ten days, by giving the absent arbitrator notice of the adjournment. 51 V. c. 37, s. 7.

21. Any award for a high school site made and published under this Act, if there be no conveyance, shall thereafter be deemed to be the title of the trustees to the land mentioned therein, and shall be a good title thereto against all persons interested in the property in any manner whatsoever, and shall be registered in the proper registry office on the affidavit of the secretary of the board of trustees verifying the same. 51 V. c. 37, s. 8.

22. The costs of arbitration shall be paid by the parties concerned in such proportion as may be determined by the arbitrators. 51. V. c. 37, s. 9.

23. All corporations and persons whatever, tenants in tail or for life, guardians, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those they represent, whether infants, issue unborn, lunatics, idiots, femmes-coverts, or other person, seized, possessed of or interested in any land, may contract for, sell or convey all or part thereof to high school trustees for a school site or an addition to the school site, or for a teacher's residence; and any contract, agreement, sale, conveyance and assurance so made shall be valid and effectual to all intents and purposes whatsoever; and the corporations or persons so conveying are hereby indemnified for what they respectively do by virtue of or in pursuance of this Act. 51 V. c. 37, s. 10.

24. If the owner of land duly selected for the said purpose is absent from the county in which the land lies, or is unknown, the trustees may procure from a sworn surveyor a certificate that he is not interested in the matter; that he knows the land and that some certain sum therein named is, in his opinion, a fair compensation for the same, and on filing the said certificate with the Judge of the County Court of the county in which the land lies, accompanied by an affidavit or affidavits which satisfy the Judge

that the owner is absent from the county and that, after diligent enquiry, he cannot be found, the Judge may order a notice to be inserted for such a time as he sees fit in some newspaper published in the county; and he may, in addition thereto, order a notice to be sent to any person by mail, or may direct service of the same to be effected in such other way as he sees fit. 51 V. c. 37, s. 11.

25. The notice shall contain a short description of the land, and a declaration of the readiness of the trustees to pay the sum certified as aforesaid; shall give the name of a person to be appointed as the arbitrator of the trustees if their offer of that sum is not accepted; shall name the time within which the offer is to be accepted, or an arbitrator named by the owner; and shall contain any other particulars which the County Judge may direct. 51 V. c. 37, s. 12.

26. If within such time as the Judge directs, the owner does not notify the trustees of the acceptance of the sum offered by them, or notify to them the name of a person whom he appoints as arbitrator, the Judge shall, on the application of the trustees, appoint a sworn surveyor to be sole arbitrator for determining the compensation to be paid for the property. 51 V. c. 37, s. 13.

27. Where land is taken by the trustees without the consent of the owner, the compensation to be paid therefor shall stand in the stead of the land; and after the trustees have taken possession of land any claim to, or incumbrance upon the same or any portion thereof, shall as against the trustees, be converted into a claim to the compensation or to a proportion thereof, and the trustees shall be responsible accordingly whenever they have paid such compensation or any part thereof to a party not entitled to receive the same, saving always their recourse against such party. 51 V. c. 37, s. 14.

28. If the trustees have reason to fear any claims or incumbrance, or if any party to whom the compensation or any part thereof is payable refuses to execute the proper conveyance, or if the party entitled to claim the same cannot be found or is unknown to the trustees, or if for any other reason the trustees deem it advisable, they may pay the arbitration and other expenses, and deposit the amount of the compensation with the High Court, or in such other manner as the County Judge may direct, with interest thereon for six months, and may deliver therewith an

authentic copy of the conveyance, or of the agreement or award if there be no conveyance; and such agreement or award shall thereafter be deemed to be the title of the trustees to the land therein mentioned, and shall be a good title thereto against all persons interested in the property in any manner whatever, and shall be registered in the proper registry office on an affidavit of the secretary of the board of trustees verifying the same. 51 V. c. 87, s. 15.

Property vested in Trustees.

29. All property heretofore granted, devised or acquired in any municipality, and vested in any person or persons, or corporation, for high school purposes, or which may hereafter be so granted, devised or acquired, shall be deemed and be taken as having vested absolutely in the board of high school trustees and the board shall have full power to convey, sell, transfer or lease such property, upon the adoption of a resolution by the board that such property is no longer required for high school purposes, and the proceeds of such sale, transfer or lease shall be applied for the use of such high school. R. S. O. c. 226, s. 26. (*Amended*).

MUNICIPAL GRANTS FOR MAINTENANCE.

30. The municipal council of every county shall on or before the 15th day of December in each year pay for the maintenance of every high school in any town not separated from the county, or in any incorporated village or township within the county, an amount equal to the amount apportioned by the Minister of Education for each of such high schools. R. S. O. c. 226, s. 32.

31.—(1) Where the proportionate cost of the maintenance of county pupils at any high school exceeds, or is alleged to exceed, the amount of money granted by the county council under the preceding section, and of the fees received for county pupils, the county shall be liable for a further sum, in the proportion as nearly as may be which the average attendance of county pupils enrolled at such high school during the preceding three years bears to the average attendance of all the pupils enrolled at the same period of three years. In the case of new high schools the period herein mentioned for which the average attendance is to be reckoned, shall be the number of years for which such school was open, not exceeding three years.

(2) Where the trustees of any high school situated in a city or in a town separated from the county notify the county clerk that such high school is open to county pupils on the same terms as high schools in the municipalities not separated from the county, the county council shall in all such cases pay the proportionate cost of the maintenance of county pupils at such high schools subject to the provisions of this Act.

(3) The trustees of a high school and the county council may by mutual agreement settle the proportionate amount to be paid by the county for the maintenance of county pupils under this section, but in the event of their inability to agree with respect to such amount either party may refer the matter in dispute to the county judge, who shall have power to settle the same. Where the county judge is a member of the high school board, or where he is unable for any reason to act as referee, the junior county judge, if not a member of the high school board, shall act as referee, or if the junior judge is unable for any reason to act, or if there be no junior judge the senior judge of the adjoining county with the greatest population according to the last Dominion census shall act as referee. Any award made by the referee shall be binding on the parties thereto for the period of three years. (*New*).

(4) In all cases of dispute the trustees of the high school shall submit a detailed statement of the receipts and expenditures of their high school for maintenance for each of the preceding years under consideration, such statement to be certified by the auditors authorized under this Act to audit high school accounts; and also a statement of the names, residence and attendance of resident, non-resident and county pupils for the same time each year of a like period, such last mentioned statement to be certified by the chairman of the board. The chairman shall also certify as to the amount of the legislative grant received for the time under consideration, and the referee shall deduct the amount so certified from the whole cost of maintenance of each high school in determining the liability of the county for the maintenance of county pupils. (*New*).

(5) The costs of reference to the county judge shall be paid by the municipal council of the county and the trustees of the high school concerned, in the proportion which the county pupils bear to all the pupils enrolled in such high school. (*New*).

(6) The municipal council of every county shall levy and collect from the municipalities composing the county the sum or sums for which the county is annually liable for the proportionate maintenance of county pupils less the fees paid by county pupils as certified to the county treasurer by the high school board.

32. The municipal council or councils of every high school district shall levy and collect each year from their respective municipalities such sum or sums as the trustees of the high school may deem necessary for the maintenance of the high school in addition to that received from the county council and other sources under this Act, and a further sum, not exceeding five hundred dollars, in any one year, if required by the trustees for permanent improvements, and said sum shall be levied by one uniform rate over the whole district. (*New*).

GRANTS FOR PERMANENT IMPROVEMENTS.

33. All sums of money required by the trustees of any high school for permanent improvements exceeding five hundred dollars shall be raised by assessment on the ratepayers of the municipality or municipalities composing the high school district, on the application of the board of trustees to the municipal council or councils of the district, made on or before the first of August in each year, and in the event of the municipal council, where the high school district is composed of one municipality, or in the event of a majority of the municipalities composing the high school district approving of such application, the municipality within which the high school is situated shall issue debentures therefor in the manner provided for the issue of municipal debentures under *The Municipal Act* of 1887. R. S. O. c. 226, s. 35 (1). (*Amended*).

34.—(1) In the case of a high school district composed of one municipality, when the council thereof refuses, or when the high school district is composed of two municipalities, when the council of one municipality refuses, or when a majority of the municipalities composing the high school district refuse to raise or borrow such sum of money aforesaid by debentures, the said council or councils shall, on the request of the trustees, submit such application to the vote of the municipality or municipalities concerned, in the manner provided by *The Municipal Act* for the creating of debts, and in the event of the assent of a major-

ity of the electors in the high school district qualified to vote upon a by-law for creating debts being thereby obtained, it shall be the duty of the council of the municipality in which the high school is situated to raise or borrow such sum. R. S. O. c. 226, s. 35 (2). (*Amended.*)

(2) When the high school district is composed of more municipalities than one, the municipal council of each municipality composing the district shall pay to the council of the municipality in which the high school is situated such proportion of the loan raised for high school purposes as the equalized assessment of each municipality or part thereof belonging to the high school district, bears to the equalized assessment of the whole district. Provided always that nothing herein contained shall prevent the municipality within which the high school is situated from assuming the full cost of permanent improvements, or from undertaking to pay any debentures that may be issued for such purpose notwithstanding that such municipality forms only a part of the high school district. (*New.*)

(3) The municipal council or councils of any high school district, or a majority of them, may, if deemed expedient, without submitting the same to a vote of the ratepayers of the municipality or municipalities comprising the district, as required by *The Municipal Act*, for the creating of debts, pass a by-law or by-laws for the purpose of raising or borrowing money, on the application of the high school board for permanent improvements. R. S. O. c. 226, s. 35 (4). (*Amended.*)

(4) Any debenture for any loan of money for school purposes may be for such term of years, not exceeding thirty, as the municipal council may think fit, or the municipal council may in its discretion make the principal of such debt repayable by annual or other instalments, in the manner provided by *The Municipal Act*. R. S. O. c. 226, s. 35 (3). (*Amended.*)

35. The council of any municipality may raise by assessment in addition to that required to be raised by this Act, such further sums of money as may be deemed expedient by the council for the maintenance or permanent improvement of any high school. R. S. O. c. 226, s. 36. (*Amended.*)

36.—(1) All moneys raised under the authority of this Act, shall be paid over to the high school treasurer, entitled to receive the same, on or before the 15th day of December in every year.

(2) The treasurer of every high school board shall give security to the board appointing him for the due and faithful performance of his duties, and shall submit his accounts to the auditors of the municipality in which the high school is situated, whose duty it shall be to audit such accounts in the same way as the municipal treasurer's accounts are audited. R. S. O. c. 226, s. 37.

HIGH SCHOOL FEES.

37.—(1) County pupils shall pay to the treasurer of the high school board such fees as the municipal council of the county may deem expedient, provided always such fees shall be uniform and shall not exceed one dollar per month. The scale of fees so fixed shall take effect from the beginning of the high school term next ensuing after adoption thereof by the county council, and shall continue in force for three years. (*New*).

(2) Non-resident pupils shall pay to the treasurer of the high school board such fees as the board of trustees may deem expedient, provided always such fee shall not be greater than the cost of maintenance at such high school, nor less than the fees imposed by the council on county pupils. (*New*).

(3) Resident pupils shall pay to the treasurer of the high school board such fees as the trustees of the high school may deem expedient. (*New*).

ENTRANCE EXAMINATION.

38.—(1) A uniform entrance examination for the admission of pupils to high schools shall be held annually in every high school district according to such regulations as may be prescribed by the Education Department. Examinations may be held at such other places in every county as shall be recommended by the county council of which notice shall be given to the inspector by the county clerk. Such places shall be affiliated for the purposes of the examination with a high school in the same inspectorial division. R. S. O. c. 226, s. 38. (*Amended*).

(2) Every high school district shall be under one board of examiners. The trustees of the public and separate schools of the city, town or incorporated village in which a high school is situated shall on or before the 1st day of June each appoint an examiner, for the purpose of such examination. The inspector or inspectors of public schools

of the inspectoral district within which the high school is situated and the principal of the high school shall be *ex-officio* members of such board.

(3) The persons qualified to be appointed examiners shall be persons holding certificates as first class teachers actually engaged in teaching, provided always that any person actually engaged in teaching who is the holder of a second class provincial certificate and who has had five years' experience as a teacher may be appointed examiner, where a first class teacher is not available within such high school district.

(4) The Board of Trustees and the Board of Examiners may agree upon the sum to be paid annually for the examination of such pupils, but in the absence of any agreement, examiners shall be allowed the sum of one dollar per pupil for conducting such examination and this allowance shall include the travelling expenses of the examiners, presiding at the examination reading and valuing the papers of candidates and reporting the results to the Education Department. (*New*).

(5) The board of education or the trustees of the high school district within which the examination is held shall on the requisition of the chairman of the board of examiners pay all the expenses of the examination at such high school, and such expenses shall be deemed to be part of the cost of maintenance of such high school. At affiliate schools the travelling and other expenses of the presiding examiner shall be paid by the county council.

(6) Any pupil passing the entrance examination may be admitted to a high school provisionally, but it shall be competent for the Minister of Education to consider the appeal of any candidate with regard to the reading and valuation of his papers or on the report of the high school inspectors, to confirm or disallow the admission of any pupil or to require of any pupil further tests of proficiency in any of the prescribed subjects of examination. R. S. O. c. 225, s. 41. (*Amended*).

(7) County pupils whose examination has been confirmed by the Minister of Education shall have the right to attend any high school aided by the council of the county in which their parents or guardians reside. Non-resident pupils may attend any high school at the discretion of the trustees of such school.

HIGH SCHOOL TEACHERS.

39.—(1) No person shall be appointed principal of a high school unless he is a graduate in Arts of some University within the British Dominions, and furnishes satisfactory evidence to the Minister of Education of his knowledge of the science and art of teaching, and of the management and discipline of schools; but any person legally qualified and employed as principal in any high school before the twenty fourth day of March, 1874, shall be deemed qualified notwithstanding this section.

(2) No person shall be appointed assistant teacher in any high school who does not possess the qualifications required by the Education Department. (*New*).

(3) Every teacher of a high school shall, in the organization, discipline, management and classification of the pupils be subject to such regulations as may be prescribed by the Education Department.

(4) The provisions of *The Public Schools Act*, respecting superannuation shall apply to teachers of high schools. R. S. O. c. 226, ss. 44, 48, 49.

AGREEMENTS.

40.—(1) Every teacher of a high school who enters into an agreement with any board of trustees for one year and who serves under such agreement for three months or over, shall be entitled to be paid his salary for the authorized holidays occurring during the period of such service, and also for all other holidays in the calendar year in the proportion which the number of days during which he has taught in the calendar year bears to the whole number of teaching days in such year.

(2) Every teacher shall be entitled to his salary during sickness, certified by a physician, for a period not exceeding four weeks for the entire year; this period may be increased at the pleasure of the trustees. R. S. O. c. 226, s. 47.

(3) Any teacher who enters into an agreement with a board of trustees, as teacher, and who wilfully neglects or refuses to carry out such agreement, shall, on the complaint of any board of trustees, be liable to the suspension of his certificate by the Education Department. (*New*).

41.—(1) All matters of difference between trustees and teachers of high schools in regard to salary or other remuneration, shall be decided in the Division Court, by

the Judge of the County Court, in each county : provided always, that the decision of any County Judge in such cases may be appealed from, as provided for in *The Public Schools Act*.

(2) In pursuance of a judgment or decision given by a County Judge in a Division Court, under the authority of this section, and not appealed from, execution may issue from time to time to recover what may be due of the amount which the Judge may have decided the plaintiff entitled to, in like manner as on a judgment recovered in a Division Court for a debt, together with all fees and expenses incidental to the issuing thereof and levy thereunder. R. S. O. c. 226, ss. 45, 46.

TERMS.

42. The academic year of every high school shall consist of three terms ; the first shall begin on the last Monday of August and end on the twenty-second day of December ; the second term shall begin on the third day of January and end on the Thursday before Easter Sunday ; the third term shall begin on the second Monday after Easter Sunday and end on the thirtieth day of June. Every Saturday, every public holiday and every day proclaimed a holiday by the council of the municipality in which the high school is situated shall be a holiday in such high school. R. S. O. c. 226, s. 50. (*Amended*).

LEGISLATIVE GRANT.

43. Any sum of money appropriated by the Legislative Assembly for high school purposes shall be apportioned by the Minister of Education on the basis of salaries paid to the teachers, the character and equipment of the school buildings and appendages, and the average attendance of pupils, according to the regulations of the Education Department, and all moneys so apportioned shall be payable half-yearly to the treasurer of each high school board in such manner as may be determined by the Lieutenant-Governor in Council, and notice of such apportionment shall be given to the county clerk. R. S. O. c. 226, s. 52. (*Amended*).

44. No high school which is not conducted according to this Act, and the regulations prescribed by the Education Department, shall be entitled to receive any part of the high school fund. R. S. O. c. 226, s. 53. (*Amended*).

45. It shall be lawful for the Lieutenant-Governor in Council to prescribe a course of elementary military instruction for high school pupils, and to appropriate out of any money granted for the purpose a sum not exceeding \$50 per annum to any school employing a competent drill instructor, and in which school a class of not less than twenty-five pupils has been taught for a period of at least six months. Such classes and instruction shall be subject to such inspection and oversight as the Lieutenant-Governor in Council may direct. R. S. O. c. 226, s. 54.

46. No high school trustee shall enter into any contract, agreement, engagement or promise of any kind, either in his own name, or in the name of another, and either alone or jointly with another, or in which he has any pecuniary interest, profit, or promised or expected benefit, with the corporation of which he is a member, or have any pecuniary claim upon or receive compensation from such corporation for any work, engagement, employment, or duty on behalf of such corporation, and every such contract, agreement, engagement or promise shall be null and void, and such trustee shall also *ipso facto* vacate his seat, and a majority of the other trustees shall declare the same vacant forthwith, and notify the clerk of the municipality, or board of trustees having authority to appoint such trustee accordingly. R. S. O. c. 226 s. 57.

47. If a trustee of any high school is convicted of any felony or misdemeanor, or becomes insane, or absents himself from the meetings of the board for three consecutive months, without being authorized by resolution entered upon its minutes, or ceases to be a resident within the county or municipality for which he is a trustee, such trustee shall *ipso facto* vacate his seat, and the remaining trustees shall declare his seat vacant forthwith, and notify the clerk of the county or municipality or board of trustees having authority to appoint such trustee accordingly. R. S. O. c. 226, s. 58.

48. Any person who wilfully interrupts or disquiets any high school established and conducted under the authority of this Act, by rude or indecent behaviour, or by making a noise either within the place where such school is held, or so near thereto as to disturb the order or exercises of the high school, shall, for each offence, on conviction thereof before a Police Magistrate or Justice of the Peace, on the affidavit of one credible witness, forfeit and pay for high

school purposes to the trustees of the high school district within which the offence was committed, such sum, not exceeding \$20, together with the costs of conviction, as the said Police Magistrate or Justice may think fit. R. S. O. c. 226, s. 59.

AUTHORIZED BOOKS.

49. No teacher shall use or permit to be used as text books any books in a high school, except such as are authorized by the Education Department, and no portion of the legislative or municipal grant shall be paid to any high school in which unauthorized books are used. R. S. O. c. 226, s. 60.

50. Any authorized text book in actual use in any high school may be changed by the teacher of such school for any other authorized text book in the same subject on the written approval of the trustees, provided always such change is made at the beginning of a school term, and at least six months after such approval has been given. R. S. O. c. 226, s. 61.

51. In case any teacher or other person shall negligently or wilfully substitute any unauthorized text book in place of any authorized text book in actual use upon the same subject in his school, he shall for each such offence, on conviction thereof before a Police Magistrate or Justice of the Peace, as the case may be, be liable to a penalty not exceeding \$10, payable to the municipality for high school purposes, together with costs, as the Police Magistrate or Justice may think fit. R. S. O. c. 226, s. 62.

52. Chapter 226 of the Revised Statutes of Ontario, 1887, chapter 37 of the Acts passed in the fifty-first year of Her Majesty's reign and chapter 72 of the Acts passed in the fifty-third year of the said reign are repealed.

AN ACT RESPECTING SEPARATE SCHOOLS.

(*Cap. 227, R. S. O. 1887*).

(CONTINUED).

SUPERANNUATION.

68. Every teacher or inspector whose name is entered as having paid into the fund for the support of superannuated teachers, may contribute to such fund in such manner as may be prescribed by the Education Department, the sum of at least \$4 annually. 49 V. c. 46, s. 69.

69. On the decease of any teacher or inspector, his wife, her husband, or other legal representative, shall be entitled to receive back the full amount paid into the superannuation fund by such teacher or inspector, with interest at the rate of seven per cent. per annum. 49 V. c. 46, s. 70.

70.—(1) Every teacher or inspector who, while engaged in his profession, contributed to the superannuated teachers' fund as provided by this Act, shall, on reaching the age of sixty years, be entitled to retire from the profession at his discretion, and receive an allowance or pension at the rate of \$6 per annum for every year of such service in Ontario, upon furnishing to the Education Department satisfactory evidence of good moral character, of his age, and of the length of his service as teacher or inspector.

(2) Every pension payable under this Act may be supplemented out of local funds by any municipal council, public school board or board of education, at its pleasure.

(3) To remove doubts, nothing in this section contained, shall be held as applying to any person who, prior to 1871, had ceased to be engaged in his profession as a teacher, and has not heretofore contributed to the said fund. 49 V. c. 46, s. 71.

71. Every teacher or inspector under sixty years of age, who has contributed, as aforesaid, and who is disabled from practising his profession, shall be entitled to a like pension, or local supplementary allowance, upon furnishing the like evidence, and by furnishing to the Education Department from time to time, in addition thereto, satisfactory evidence of his being disabled. 49 V. c. 46, s. 72.

72. Every teacher entitled to receive an allowance from the superannuated teachers' fund, who holds a first or second-class provincial certificate, or a first-class county board certificate, or who is an authorized head master of a high school or collegiate institute, shall, in addition to the said allowance or pension, be entitled to receive a further allowance at the rate of \$1 per annum for every year of service while he held such certificate, or while he acted as head master of a high school or collegiate institute. 49 V. c. 46, s. 73.

73. The retiring allowance shall cease at the close of the year of the death of the recipient, and may be discontinued at any time should the pensioned teacher fail to maintain a good moral character, to be vouched for (when requested) to the satisfaction of the Education Department. 49 V. c. 46, s. 74.

74. If any pensioned teacher or inspector shall, with the consent of the Education Department, resume the profession of teaching or inspecting, the payment of his allowance shall be suspended from the time of his being so engaged. 49 V. c. 46 s. 75.

75. In case any pensioned teacher or inspector is again placed on the superannuation list, a pension for the additional time of service shall be allowed him, on his compliance with this Act and the regulations of the Education Department. 49 V. c. 46 s. 76.

76. Any teacher or inspector who, having resumed his profession, draws or continues to draw upon the superannuation fund for any part of his allowance as a superannuated teacher, shall forfeit all claim to the fund, and his name shall be struck off the list of superannuated teachers. 49 V. c. 46 s. 77.

77. In the case of those teachers or inspectors who may not avail themselves of the provisions of sections 68 or 78 of this Act, the provisions of sections 69 to 78 inclusive

shall apply so far as relates to all sums of money already paid into the fund for the support of superannuated teachers. 49 V. c. 46, s. 78.

78. Any teacher who retires from the profession, or any teacher or inspector who desires to remove his name from the list of contributors to the superannuated teachers' fund, shall be entitled to receive back from the Minister of Education one-half of any sums paid in by him or her to the fund, through the public school inspector, or otherwise. 49 V. c. 46, s. 79.

HOLIDAYS.

79.—(1) The separate school year shall consist of two terms: the first shall begin on the 3rd day of January, and end on the 1st day of July; the second shall begin on the third Monday of August, and end on the 23rd day of December. Every Saturday, every statutory holiday, and every day proclaimed a holiday by the municipal authorities in which the school section or division is situated, shall be a holiday in the separate schools.

(2) In the case of cities, towns and incorporated villages the school terms shall be the same as the terms prescribed for high schools. 49 V. c. 46, s. 80.

PENALTIES AND PROHIBITIONS.

80. No person shall wilfully make a false declaration of his right to vote at any school meeting or election of school trustees; and any person convicted of a contravention of this section, upon the complaint of any person, shall be punishable by fine or imprisonment, at the discretion of the Court of General Sessions, or by a penalty of not less than \$5, or more than \$10, to be sued for and recovered with costs before a Justice of the Peace, by the separate school trustees of the city, town, village or school section for its use. 49 V. c. 46, s. 81.

81. No trustee of a separate school shall hold the office of separate school inspector, or be a master or teacher in the separate school of which he is a trustee: nor shall the master or teacher of any public, high or separate school hold the office of trustee of a separate school nor shall an inspector be a teacher or trustee of any separate school while he holds the office of inspector. 49 V. c. 46, s. 82.

82. Any trustee who is convicted of any felony or misdemeanor, or becomes insane, or absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes, or ceases to be a resident within the school municipality for which he is a trustee, shall *ipso facto* vacate his seat, and the remaining trustees shall declare his seat vacant, and forthwith order a new election. 49 V. c. 46, s. 88.

83. Any trustee who has any pecuniary interest, profit or promise, or expected benefit in, or from any contract, agreement or engagement, either in his own name or the name of another, with the corporation of which he is a member, or who receives, or expects to receive any compensation for any work, engagement, employment or duty, on behalf of such corporation, shall *ipso facto* vacate his seat, and every such contract, agreement, engagement or promise shall be null and void, and the remaining trustees, or a majority of them, shall declare the seat vacant, and forthwith order a new election. 49 V. c. 46, s. 84.

84. Any person who wilfully disturbs, interrupts or disquiets the proceedings of any school meeting authorized to be held by this Act, or any one who wilfully interrupts or disquiets any separate school established and conducted under its authority, or other school, by rude or indecent behaviour, or by making a noise, either within the place where such school is kept or held, or so near thereto as to disturb the order or exercises of the school, shall, for each offence, on conviction thereof before a Justice of the Peace, on the oath of one credible witness, forfeit and pay for separate school purposes to the school section, city, town or village within which the offence is committed, a sum not exceeding \$20, together with the costs of the conviction, as the said Judge may think fit. 49 V. c. 46, s. 85.

85. If a person chosen as trustee refuses to serve, he shall forfeit the sum of \$5. 49 V. c. 46, s. 86.

86. Every person so chosen who has not refused to accept the office, and who at any time refuses, or neglects to perform its duties, shall forfeit the sum of \$20, to be sued for and recovered before a Justice of the Peace, by the trustees of the school section, or by any person whatsoever for its use, as authorized by this Act. 49 V. c. 46, s. 87.

87. If the trustees of a separate school wilfully neglect or refuse to exercise all the corporate powers vested in them by this Act, for the fulfilment of any contract or agreement

made by them, any trustee or trustees so neglecting or refusing to exercise such power shall be held to be personally responsible for the fulfilment of such contract or agreement. 49 V. c. 46, s. 88.

88. If the trustees of a separate school refuse, or neglect to take proper security from the secretary-treasurer, or other person to whom they entrust school moneys, they shall be held personally responsible for the moneys. 49 V. c. 46, s. 89.

89. If any part of the separate school fund or moneys is embezzled or lost, through the dishonesty or faithlessness of any trustee, secretary-treasurer, or other person to whom it has been entrusted, and proper security against the loss has not been taken, the person or persons whose duty it was to have exacted the security shall be personally responsible for the sums so embezzled or lost; and such sums may be recovered from him or them, by the person entitled to receive the same, by action in any Court having jurisdiction to the amount, or by information at the suit of the Crown. 49 V. c. 46, s. 90.

90.—(1) No secretary-treasurer appointed by the trustees of a separate school, and no person having been such secretary-treasurer, and no trustee or other person who may have in his possession any books, papers, chattels or moneys, which came into his possession as such secretary-treasurer, trustee or otherwise, shall wrongfully withhold, or neglect, or refuse to deliver up, or account for, and pay over the same, or any part thereof, to the person, and in the manner directed by a majority of the trustees then in office, or by other competent authority; and such withholding, neglect or refusal to deliver up or account for, shall be punishable, as provided in the following three sections of this Act.

(2) Upon application to the Judge of the County Court, by a majority of the trustees, or by any two supporters of the separate school, supported by their affidavit made before some Justice of the Peace, of such wrongful withholding or refusal, the Judge shall make an order that such secretary-treasurer, or person having been such secretary-treasurer or trustee, or other person, do appear before him, at a time and place to be appointed in the order.

(3) Any bailiff of a Division Court, upon being required by the Judge, shall serve the order personally on the person complained against, or leave the same with a grown-up person at his residence. 49 V. c. 46, s. 91.

91. At the time and place so appointed, the Judge being satisfied that service has been made, shall, in a summary manner, and whether the person complained of does or does not appear, hear the complaint, and if he is of opinion that the complaint is well founded, the Judge shall order the person complained of to deliver up, account for, and pay over the books, papers, chattels or moneys as aforesaid, by a certain day to be named by the Judge in the order, together with such reasonable costs incurred in making the application as the Judge may tax. 49 V. c. 46, s. 92.

92. In the event of a non-compliance with the terms specified in the order, or any, or either of them, the Judge shall order such person to be forthwith arrested by the sheriff of any county in which he may be found, and to be committed to the common gaol of his county, there to remain without bail until the Judge is satisfied that the person has delivered up, accounted for, or paid over the books, papers, chattels, or moneys in question, in the manner directed by the majority of the trustees, or other competent authority, as aforesaid; upon proof of his having so done, the Judge shall make an order for his discharge, and he shall be discharged accordingly. 49 V. c. 46, s. 93.

93. No such proceeding shall impair or affect any other remedy which the trustees, or other competent authority, may have against the secretary-treasurer or person having been such secretary-treasurer or his sureties, or against any trustee or other person as aforesaid. 49 V. c. 46, s. 94.

94. The trustees, or their secretary-treasurer in their behalf, shall not refuse to furnish the auditors of any accounts of a separate school, or either of them, with any papers or information in their power, and which may be required of them relative to their school accounts, and any contravention of this section, upon prosecution therefor by either of the auditors, or any separate school supporter, shall be punished by fine or imprisonment, as provided by this Act. 49 V. c. 46, s. 95.

95.—(1) In case the trustees of a separate school neglect to transmit to the Minister of Education, on or before the 30th day of June, and the 31st day of December in every year, a correct and verified statement of the average attendance of pupils in each of the schools under their charge during the six months then immediately preceding, then the school section shall not be entitled to the apportionment from the school fund for the said six months.

(2) The trustees so neglecting shall be personally responsible for the amount of the loss of such apportionment. 49 V. c. 46, s. 96.

96. In case the trustees of a separate school neglect to prepare and forward the aforesaid annual report to the Minister of Education by the 15th day of January in every year, each of them shall, for every week after such 15th day of January, and until such report has been prepared and presented, forfeit the sum of \$5, to be sued for by any supporter of such separate school and collected and applied in the manner provided for by this Act. 49 V. c. 46, s. 97.

97.—(1) If a trustee of a separate school knowingly signs a false report, or if a teacher of a separate school keeps a false school register, or makes a false return, with the view of obtaining a larger sum than the just proportion of school moneys coming to such school, the trustee or teacher shall, for every offence, forfeit to the board of separate school trustees for the purposes of the separate school the sum of \$20, for which any person whatever may prosecute him before a Justice of the Peace, and the trustee or teacher may be convicted on the oath of one credible witness other than the prosecutor.

(2) If upon conviction, the penalty is not forthwith paid, the same shall, under the warrant of the Justice, be levied with costs by distress and sale of the goods and chattels of the offender.

(3) The penalty when so paid or collected, shall by the Justice be paid over to the said separate school. 49 V. c. 46, s. 98.

98.—(1) The trustees of every separate school shall be personally responsible for the amount of any school moneys forfeited by or lost to the separate school in consequence of the neglect of duty of the trustees during their continuance in office.

(2) The amount thus forfeited or lost shall be collected and applied in the manner provided for by this Act. 49 V. c. 46, s. 99.

HOW FINES AND PENALTIES MAY BE RECOVERED.

99.—(1) Unless it is in this Act otherwise provided, all fines, penalties, and forfeitures recoverable by summary proceedings, may be sued for, recovered, and enforced with

costs, by and before any Police Magistrate or Justice of the Peace having jurisdiction within the school section, city, town, or village, in which such fine or penalty has been incurred.

(2) If the fine or penalty and costs are not forthwith paid, the same shall, by and under the warrant of the convicting Justice, be enforced, levied and collected with costs by distress and sale of the goods and chattels of the offender, and shall be by the Police Magistrate or Justice paid over to the school treasurer of the separate school, city, town or village, or other party entitled thereto.

(3) In default of such distress the Police Magistrate or Justice shall, by his warrant, cause the offender to be imprisoned for any time not exceeding thirty days, unless the fine and costs, and the reasonable expenses of endeavouring to collect the same are sooner paid. 49 V. c. 46 s. 100.

NOTE.—By 55 Vic. c. 60, s. 4, “No municipal by-law hereafter passed for exempting any portion of the rateable property of a municipality from taxation in whole or in part, shall be held or construed to exempt such property from school rates of any kind whatsoever.” See Public Schools Act, s. 103, s-s. 5; also s. 118; see B. N. A. Act, 1867, s. 98, s-s. 2, 3.

MISCELLANEOUS.

POWERS OF DOMINION AND PROVINCIAL PARLIAMENTS
UNDER THE B. N. A. ACT, 1867.

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated; that is to say:—

1. The Public Debt and Property.
2. The regulation of Trade and Commerce.
3. The raising of money by any mode or system of Taxation.
4. The borrowing of money on the public credit.
5. Postal service.
6. The Census and Statistics.
7. Militia, Military and Naval Service and Defence.
8. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the establishment and maintenance of Marine Hospitals.
12. Sea coast and inland Fisheries.
13. Ferries between a Province and any British or Foreign country or between two Provinces.

14. Currency and Coinage.
15. Banking, incorporation of banks, and the issue of paper money.
16. Savings' Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures.

92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say,—

1. The Amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant-Governor.

2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial purposes.
3. The borrowing of money on the sole credit of the Province.
4. The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers.
5. The management and sale of the Public Lands belonging to the Province and of the timber and wood thereon.
6. The establishment, maintenance, and management of public and reformatory prisons in and for the Province.
7. The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Province, other than marine hospitals.
8. Municipal institutions in the Province.
9. Shop, saloon, tavern, auctioneer, and other licenses in order to the raising of a revenue for Provincial, local or municipal purposes.
10. Local works and undertakings other than such as are of the following classes,—
 - a. Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province :
 - b. Lines of steam ships between the Province and any British or foreign country :
 - c. Such works as, although wholly situate within the Province, are, before or after their execution, declared by the Parliament of Canada to be for the general advantage of Canada, or for the advantage of two or more of the Provinces.
11. The incorporation of companies with Provincial objects.

12. The solemnization of marriage in the Province.
13. Property and civil rights in the Province.
14. The administration of justice in the Province, including the constitution, maintenance, and organization of Provincial Courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those Courts.
15. The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.
16. Generally all matters of a merely local or private nature in the Province.

Education.

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions :—

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union.
2. All the powers, privileges, and duties at the Union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.
3. Where in any Province a system of separate or dissentient schools exists by law at the Union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor-General in Council from any Act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

4. In case any such Provincial law as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor-General in Council under this section.

Uniformity of Laws in Ontario, Nova Scotia and New Brunswick.

94. Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and of the procedure of all or any of the Courts in those three Provinces; and from and after the passing of any Act in that behalf the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof..

Agriculture and Immigration.

95. In each Province the Legislature may make laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

JUDICATURE.

96. The Governor-General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick, and the procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor-General shall be selected from the respective Bars of those Provinces.

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

99. The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor-General on address of the Senate and House of Commons.

100. The salaries, allowances and pensions of the Judges Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

101. The Parliament of Canada may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance, and organization of a general Court of Appeal for Canada, and for the establishment of any additional Courts for the better administration of the Laws of Canada.

NOTE.—Over 300 amendments have been made in the Municipal and Assessment Acts in the Province of Ontario since the year 1887, thereby rendering the last Revised Statutes of Ontario of but little use to the legal profession,

members of councils, magistrates, or others interested in obtaining information respecting the laws by which they are more directly affected, unless they severally examine the Statutes of each successive Session of the Legislature, and by erasures and interpolations endeavour to consolidate within the pages of the R. S. O. the existing law. The object of the Canadian Municipal Journal is to so consolidate the various Acts and explain the more abstruse or apparently conflicting sections, whereby the laws, as amended, may be readily understood and acted upon by any person, whether in a private or official capacity.

The recurrent repeals and amendments to said Acts are sometimes beneficial; but, while admitting the improvement in many cases, the question arises whether most of the changes made during the last five years could not have been originally inserted in the R. S. O. if the matters under consideration had been properly understood. The assertion can scarcely be refuted that very many of the changes in the Municipal, Assessment and other Acts have been made, from time to time, through the information derived from City and County Councils throughout the Province. This being the case, such Councils should have a proportionate representation in the deliberations of the Legislative body.

To suggest that the mayors and wardens of the several cities and counties in the Province should compose and constitute the Legislature, would, although saving the expense of a Legislative election, be considered too sudden a departure from the system of electing lawyers, doctors, and enriched speculators, who, by devious ways, secure an election through the nomination of a party, to the exclusion of less presumptuous but oftentimes wiser men. In case it was provided that, in addition to the usual qualification required in a candidate for legislative honors, he should have served as alderman or county councillor for a certain term of years, a double purpose would be accomplished, namely: that of having men of superior talent striving to

attain such a qualifying position, and, at the same time, placing in the Legislature men who would be competent to deal with all matters relating generally to the chief interests of the people.

(To be continued.)

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ERRATUM :

In note to sec. 279, Municipal Act, read " sec. 278" instead of " 271."

THE Canadian Municipal Journal

12 Numbers per year, aggregating 400 pages.

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MUNICIPAL, SCHOOL AND OTHER LEGISLATIVE ENACT-
MENTS RELATING TO LOCAL MUNICIPALITIES,

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Nos. 5—8.

THE MUNICIPAL ACT.

(R. S. O. 1887, cap. 84.)

(CONTINUED.)

NOTE TO SECTION 340.—It will be observed that sub-section 2 of section 340 (pages 29-30 of JOURNAL) has been repealed, and s-s. 2 of 53 V. c. 50, s. 9, as amended by 54 V. c. 42, s. 10 substituted. Under this section a Council may pass by-laws for contracting debts, etc., within its jurisdiction, subject to certain restrictions and provisions, which may be enumerated as follows : —

1. If the by-law relates to the purchase of public works, it must name a day when the by-law is to take effect, otherwise it will take effect on the day of the passing.

C.M.J.—8

2. The whole debt is to be made payable within 20 years, if not contracted for the purposes mentioned in the first six lines of sub-section 2, but if contracted for said purposes then the debt must be paid in 30 years at furthest from the date on which the by-law takes effect. It will be noticed that the words "harbor works or improvements" are by 54 V. c. 42, s. 10 added after the word "railways" in the *first* line of 53 V. c. 50, s. 9 (2), but these words are not inserted after the word "railways" where it occurs in the *eighth* line of said sub-section, so that if the debt is contracted for "harbor works or improvements" no provision is made for a limitation in time for the payment of the debt.
3. The amount of principal and interest to be raised annually must be set forth in the by-law, the interest on investments not to be estimated at more than five per cent.
4. The annual sum must be raised by a special rate on the property liable for the payment of the debt.
5. The by-law must recite the particulars mentioned in (a) (b) (c) (d). See sec. 117 Public School Act.

341.—(1) If the by-law is for a work payable by local assessment, it shall recite:

- (a) The amount of the debt which the by-law is intended to create, and, in some brief and general terms, the object for which it is to be created;
- (b) The total amount, required by this Act to be raised annually by special rate for paying the debt and interest under the by-law;
- (c) The value of the whole real property ratable under the by-law, as ascertained and finally determined as aforesaid;
- (d) That the debt is created on the security of the special rate settled by the by-law, and on that security only. 46 V. c. 18, s. 343.

(2) In the matter of by-laws passed, or to be passed for works payable by local assessment, in order to facilitate the negotiation of debentures issued thereunder, and add to their commercial value, the council of any township, city, town, or incorporated village; may declare that the debt to be created on the security of the special rate settled by the by-law is further guaranteed by the municipality at large, anything contained in sub-section (d) of this section to the contrary notwithstanding. 49 V. c. 37, s. 39; 50 V. c. 29, s. 48.

NOTE.—The powers contained in sub-section 2 should seldom be exercised unless the municipality at large is to be benefited to a considerable extent; similar powers are given under 53 V. c. 50, ss. 38, 620 (4, 7); 621, 622, 630a.

342.—(1) In any case of passing a by-law for contracting a debt, by borrowing money *for any purpose*, the municipal council may, in its discretion, make the principal of the debt repayable by annual instalments, during the currency of the period (not exceeding thirty years, if the debt is for gas or water works or railways, and not exceeding twenty years, if the debt is for any other purpose), within which the debt is to be discharged; such instalments to be of such amounts that the aggregate amount payable for principal and interest in any year shall be equal, as nearly as may be, to what is payable for principal and interest during each of the other years of such period; and may issue the debentures of the municipal corporation for the amounts, and payable at the times, corresponding with such instalments, together with interest, annually or semi-annually, as may be set forth and provided in the by-law. 52 V. c. 36, s. 18.

(2) The by-law shall set forth a certain specific sum, to be raised in each year during the currency of the debt, which annual sum shall be sufficient to discharge the several instalments of principal and interest accruing due on such debt, as the said instalments and interest become, respectively, payable according to the terms of the by-law; and in cases within this section it shall not be necessary that any provision be made for a sinking fund. 46 V. c. 18, s. 344; 52 V. c. 36, s. 18.

NOTE.—By section 117 Public Schools Act "Any debenture issued by any municipality for school purposes may be" . . . "for such term of years and for such amount as the council shall see fit, not exceeding thirty years, or the municipal council may in its discretion make the principal and interest of such debt repayable by annual or other instalments in the manner provided in the Municipal Act."

Under the provisions of this section (342) the debenture debt, incurred for school purposes (if repayable by annual instalments), must be discharged within 20 years.

343. Every special assessment made, and every special rate imposed and levied, under any of the provisions of this Act, and all sewer rents and charges for work or services done by the corporation, on default of the owners of real estate, under the provisions of any valid by-law of the council of the said corporation, shall form a lien and charge upon the real estate upon, or in respect of which, the same shall have been assessed and rated or charged, and shall be collected in the same manner, and with the like remedies, as ordinary taxes upon real estate are collectable, under the provisions of *The Assessment Act*. 46 V. c. 18, s. 345.

344.—(1) Every by-law (except for drainage, as provided for under section 569 of this Act, or for a work payable entirely by local assessment) for raising, upon the credit of the municipality, any money not required for its ordinary expenditure, and not payable within the same municipal year, shall, before the final passing thereof, receive the assent of the electors of the municipality in the manner provided for in section 293 and following sections of this Act; except that in counties the county council may raise, by by-law or by-laws, without submitting the same for the assent of the electors of such county or counties, for contracting debts or loans, any sum or sums not exceeding in any one year \$20,000 over and above the sums required for its ordinary expenditure.

(2) Provided always, that where a county and city are united for judicial purposes the council of the county or city may, by by-law or by-laws passed at any meeting of such

council, without submitting the same for the assent of the electors of such county or city, as the case may be, for contracting such debt, raise such sums of money as may be required for erecting, building and furnishing a court house and offices, to be used in connection therewith. and for acquiring such land as may be necessary or convenient for the purposes of such court house and offices. 46 V. c. 18, s. 846.

(3) And provided always, that the council of a town heretofore or hereafter withdrawn from the county, and continuing so withdrawn pursuant to the provisions hereof, or of a city heretofore or hereafter erected, may, by by-law or by-laws passed at any meeting of such council, without submitting the same for the assent of the electors of such town or city as the case may be, raise such sum or sums of money as may be required to liquidate their share of the county debt as awarded or agreed upon pursuant to this Act, and to issue debentures for that purpose at such rates, for such times and upon such terms as they may theretofore have done, or be entitled to do for meeting any other liability of said town or city as the case may be. 49 V. c. 37, s. 7.

845. No such by-law of a county council for contracting any such debt or loan for an amount not exceeding in any one year \$20,000 over and above the sums required for its ordinary expenditure, other than a by-law to raise money for erecting, building and furnishing a court house and offices aforesaid, or for acquiring land as provided in sub-section 2 of the last preceding section, shall be valid, unless the same is passed at a meeting of the council specially called for the purpose of considering the same, and held not less than three months after a copy of the by-law, as the same is ultimately passed, together with a notice of the day appointed for the meeting, has been published in some newspaper issued weekly or oftener within the county (as constituted for judicial purposes) or if there is no such public newspaper, then in a public newspaper published nearest to the county, which said notice may be to the effect following :

The above is a true copy of a proposed by-law, to be taken into consideration by the Municipality of the County (or United Counties) of
 at in the said County (or United Counties) on the day of
 , at , 18 , at the hour of o'clock in

the noon, at which time and place the members of the Council are hereby required to attend for the purpose aforesaid.

G. H.
Clerk.

46 V. c. 18, s. 347.

346. Where part only of a sum of money provided for by a by-law has been raised, the council may repeal the by-law as to any part of the residue, and as to a proportionate part of the special rate imposed therefor, provided the repealing by-law recites the facts on which it is founded, and is appointed to take effect on the 31st day of December in the year of its passing, and does not affect any rates due, or penalties incurred before that day, and provided the by-law is first approved by the Lieutenant-Governor in Council. 46 V. c. 18, s. 348.

347. After a debt has been contracted, the council shall not, until the debt and interest has been paid, repeal the by-law under which the debt was contracted, or any by-law for paying the debt or the interest thereon, or for providing therefor a rate or additional rate, or appropriating thereto the surplus income of any work or of any stock or interest therein, or money from any other source; and the council shall not alter a by-law providing any such rate, so as to diminish the amount to be levied under the by-law, except in the cases herein authorized, and shall not apply to any other purpose any money of the corporation which, not having been previously otherwise appropriated by any by-law or resolution, has been directed to be applied to such payment. 46 V. c. 18, s. 349.

348. No officer of the municipality shall neglect or refuse to carry into effect a by-law for paying a debt under color of a by-law illegally attempting to repeal such first mentioned by-law, or to alter the same so as to diminish the amount to be levied under it. 46 V. c. 18, s. 350.

349. Any council may contract a debt to Her Majesty in the purchase of any of the public roads, harbours, bridges, buildings or other public works in Ontario, whether belonging to this Province or to the Dominion of Canada, or of any claim in respect of such works, or of any right to collect tolls on such road or bridge, or for the making such road or bridge wholly or partly free from tolls, and may execute such bonds, deeds, covenants, and other securities to Her

Majesty, as the council may deem fit, for the payment of the price of such public work or claim already sold or transferred, or which may be sold or transferred, or agreed to be sold or transferred to the municipal corporation, and for securing the performance and observance of all or any of the conditions of sale or transfer; and may also pass all necessary by-laws for any of the purposes aforesaid; and all such by-laws, debts, bonds, deeds, covenants and other securities shall be valid, although no special or other annual rate has been settled or imposed, to be levied in each year, as provided by sections 340 to 342 of this Act. 46 V. c 18, s. 351; 49 V. c 37, s. 8.

NOTE.—See sec. 340.

350. The council may, in any by-law to be passed for the creation of such debt, or for the executing of such bonds, deeds, covenants, or other securities as aforesaid, to Her Majesty, or in any other by-law to be passed by the council, settle and impose a special rate per annum, of such amount as the council may deem expedient, in addition to all other rates whatsoever, to be levied in each year upon the assessed ratable property within the municipality, for the payment and discharge of such debt, bonds, deeds, covenants or other securities, or some part thereof, and the by-laws shall be valid, although the rate settled or imposed thereby is less than is required by the sections last mentioned; and the said sections shall, so far as applicable, apply and extend to every such by-law and the moneys raised or to be raised thereby, as fully in every respect as such provisions would extend or apply to any by-law enacted by any council for the creation of any debt as provided in the said sections, or to the moneys raised or to be raised thereby. 46 V. c. 18, s. 352.

REGISTRATION OF BY-LAWS.

351. Every by-law passed by any municipality for contracting any debt, by the issue of debentures for a longer term than one year, and for levying rates for the payment of such debts on the ratable property of the municipality, or any part thereof, shall be registered by the clerk of the municipality, if a county, in the registry office for the county in which the county town is situate, or in case of

local municipalities in the registry office of the registry division in which the local municipality is situate, within two weeks after the final passing thereof. 46 V. c. 18, s. 358.

352. Every such by-law so registered, and the debentures issued thereunder, shall be absolutely valid and binding upon the municipality, according to the terms thereof, and shall not be quashed or set aside on any ground whatever, unless an application or action to quash or set aside the same be made to some Court of competent jurisdiction within three months from the registry thereof, and a certificate under the hand and seal of the clerk of the Court, stating that such action or proceeding has been brought or application made, shall have been registered in said registry office within the period of three months.

(2) If the action or proceeding be dismissed, in whole or in part, then the by-law, or so much thereof as is not the subject of the application, or not quashed upon the application, shall be absolutely valid and binding, according to the terms thereof, on the expiration of three months from the date of the registration of the by-law; upon the dismissal of such action or proceeding, a certificate to that effect may be registered in the said registry office.

(3) Notice of the passing of every by-law to which this and the preceding section refer, and which has not been submitted to the ratepayers, shall immediately after the registration of the by-law be published in some public newspaper, published either within the municipality, or in the county town, or in a public newspaper in an adjoining local municipality, as the council may designate by resolution, and the publication shall, for the purpose aforesaid, be continued in at least one number of such paper each week for three successive weeks.

(4) Every by-law providing for the issue of debentures passed under the provisions of this Act relating to local improvements, where the same has been so registered, and the debentures issued thereunder, and the assessment made upon the real property mentioned therein, notwithstanding any want of substance or form either in the by-law itself, or in the time and manner of passing the same, shall be absolutely valid and binding upon the municipality and upon such real property according to the terms

thereof, and shall not be quashed or set aside on any ground whatever, unless an application or action to quash or set aside the same be made to some court of competent jurisdiction, within one month from the registry thereof.

(5) Where any action or proceeding shall be brought or taken or where an application shall be made to quash or set aside such by-law so registered, a certificate thereof under the hand and seal of the clerk of the court shall be registered in such registry office within five weeks from the date of registering the by-law, and in default thereof the court or judge may refuse to hear, or may dismiss any such action, proceeding, motion or application to quash or set aside the by-law.

(6) Nothing in this section contained shall be taken to make valid a by-law or the debentures issued thereunder where it appears on the face of such by-law that the provisions of sub-sections 2, 3, 4 and 5, of section 340, or of section 342 of this Act, have not been substantially complied with.

NOTE.—Any action to quash or set aside the by-law after registration must be brought within three months from the registry thereof; and by 54 V. c. 42, s. 11 (4) when the by-law has been registered, the debentures issued thereunder, and the assessment made upon the real property mentioned therein, the action must be brought or taken within *one month* from the registry thereof.

353. Nothing in the last preceding two sections contained shall make it obligatory upon any city, town or incorporated village to register any by-laws providing for the issue of debentures, passed under the provisions of this Act relating to local improvements, but the same may be so registered at the option of the municipality. 46 V. c. 18, s. 355.

354. The notice required to be published by section 352 shall be in the form following, or to the like effect :

Notice is hereby given that a by-law was passed by the of
of on the day of
A.D. 18 , providing for the issue of debentures to the amount of \$,
for the purpose of and that such by-law was registered

in the registry office of _____ the county of _____ on
the _____ day of _____ A.D. 18 _____

Any motion to quash or set aside the same, or any part thereof, must be made within three months from the date of registration, and cannot be made thereafter.

Dated the _____ day of _____ 18 _____ Clerk.

46 V. c. 18, s. 356.

NOTE.—No form of notice is given under the provisions of sec. 352 (4-5).

355. The by-laws shall be registered in the way and manner provided by *The Debentures Registration Act*, and the registrar shall be paid the sum of \$2 for registration thereof. 46 V. c. 18, s. 357.

356.—(1) The certificate first referred to in section 352 shall be in the form or to the effect following:

In the _____ (name of Court)
This is to certify that in a certain action or proceeding in this Court, entitled _____ the validity of by-law No. _____ of the _____ entitled a by-law has been called in question (if a portion only of the by-law is called in question, state the fact).
Dated,

(Signed), A. B.,
Clerk of

{ Seal. }

(2) The certificate of dismissal of the action or proceeding shall be in the form or to the effect following:

In the _____ (name of Court)
I hereby certify that the action or proceeding in this Court, entitled _____ calling in question the validity of _____ by-law No. _____ of the _____ has been dismissed (or if dismissed in part and granted in part, set out the order made, verbatim).
Dated

(Signed), A. B.,
Clerk of

{ Seal. }

(3) The registrar shall be entitled to the sum of fifty cents for registering either of said certificates. 46 V. c. 18, s. 358.

BY-LAWS RESPECTING YEARLY RATES.

357.—(1) The council of every municipal corporation, and of every provisional corporation, shall assess and levy on the whole ratable property within its jurisdiction, a sufficient sum in each year to pay all valid debts of the

corporation, whether of principal or interest falling due within the year, but no such council shall assess and levy in any one year, more than an aggregate rate of two cents in the dollar on the actual value, exclusive of school rates.

(2) If in a municipality the aggregate amount of the rates necessary for the payment of the current annual expenses of the municipality, and the interest and the principal of the debts contracted by the municipality on the 29th day of March, 1878, exceed the said aggregate rate of two cents in the dollar on the actual value of such ratable property, the council of the municipality shall levy such further rates as may be necessary to discharge obligations up to that date incurred, but shall contract no further debts until the annual rates required to be levied within the municipality are reduced within the aggregate rate aforesaid: but this shall not affect any special provisions to the contrary contained in any special Act now or hereafter in force. 47 V. c. 18, s. 359.

NOTE.—The aggregate yearly rate for general purposes within the year is limited to *two cents in the dollar*.

358. In counties and local municipalities the rates shall be calculated at so much in the dollar upon the actual value of all the real and personal property liable to assessment therein. 46 V. c. 18, s. 360.

NOTE.—It is necessary that the rates shall be calculated at *so much in the dollar*, and not so many cents in the \$100.

359. The council of every county or local municipality shall every year make estimates of all sums which may be required for the lawful purposes of the county or local municipality, for the year in which such sums are required to be levied, each municipality making due allowance for the cost of collection, and of the abatement and losses which may occur in the collection of the tax, and for taxes on the lands of non-residents which may not be collected. 46 V. c. 18, s. 361.

360. The council of every municipality may pass one by-law, or several by-laws, authorizing the levying and collecting of a rate or rates of so much in the dollar upon

the assessed value of the property therein as the council deems sufficient to raise the sums required on such estimates. 46 V. c. 18, s. 362.

361. If the amount collected falls short of the sums required, the council may direct the deficiency to be made up from any unappropriated fund belonging to the municipality. 46 V. c. 18, s. 363.

362. If there is no unappropriated fund, the deficiency may be equally deducted from the sums estimated as required, or from any one or more of them. 46 V. c. 18, s. 364.

363. If the sums collected exceed the estimates, the balance shall form part of the general fund of the municipality, and be at the disposal of the council, unless otherwise specially appropriated; but if any portion of the amount in excess has been collected on account of a special tax upon any particular locality, the amount in excess collected on account of such special tax shall be appropriated to the special local object. 46 V. c. 18, s. 365.

364. The taxes or rates imposed or levied for any year shall be considered to have been imposed, and to be due on and from the 1st day of January of the then current year, and end with the 31st day of December thereof, unless otherwise expressly provided for by the enactment or by-law under which the same are directed to be levied. 46 V. c. 18, s. 366.

365.—(1) All debentures issued before the first day of January, 1867, by municipal corporations, under any by-law, and based upon the yearly value of ratable property at the time of passing such by-law, shall hold the order of priority which they occupied on the said 1st day of January, 1867; and each municipal corporation (having so issued debentures) shall levy a rate on the actual real value of the ratable property within the municipality represented sufficient to produce a sum equal to that leviable or produced on the yearly value of such property as established by the assessment roll for the year 1866; and such rates shall be applied solely to the payment of such debentures, or interest on such debentures, according to the terms of the by-law under which they were issued.

(2) In cases where a sinking fund is required to be provided, either by the investment of a specific rate or amount, or on a rate on the increase in value over a certain sum, then such a rate shall be levied as shall at least equal the sum originally intended to be set apart. 46 V. c. 18, s. 367.

366. Every municipal council shall by a two-thirds vote of the members thereof have the power of exempting any manufacturing establishment or any water works or water company in whole or in part, from taxation, for any period not longer than ten years, and to renew this exemption for a further period not exceeding ten years. 47 V. c. 32, s. 8.

[As to granting aid by bonus to manufacturing establishments, see sec. 479 (10)]. 55 V. c. 44, s. 1.

367.—(1) If on account of a sum being on hand from a previous year, or a sum being on hand which has been derived from the work, or from the investment of the sinking fund, or on account of the increased value of property liable to assessment, it is found to be unnecessary to levy the full rate imposed by the by-law in order to raise the instalment of the sinking fund and interest required to be raised for any year, or to raise such instalments for any future years of the then unexpired time which the debentures have to run, the council may pass a by-law reducing the rate for such year or for any such future years, so that no more money may be collected than the amount required. 50 V. c. 29, s. 16.

(2) No such by-law shall be passed unless, having regard to the time the debentures have to run, a proper proportion of sinking fund and interest has been levied, according to the intention of the original by-law. 46 V. c. 18, s. 369 (2).

368. No by-law passed under the preceding section shall be valid unless, after it is passed, it is approved by the Lieutenant-Governor in Council; and the facts which authorise the passing of such by-law shall, on its submission for approval, be verified in the manner provided by section 290 of this Act. 46 V. c. 18, s. 370.

ANTICIPATORY APPROPRIATIONS.

369. In case any council desires to make an anticipatory appropriation for the next ensuing year, in lieu of the special rate for such year, in respect of any debt, the council may do so, by by-law, in the manner and subject to the provisions and restrictions following :

1. The council may carry to the credit of the sinking-fund account of the debt, as much as may be necessary for the purpose aforesaid ;

- (a) Of any money at the credit of the special rate account of the debt beyond the interest on such debt for the year following that in which the anticipatory appropriation is made ;
- (b) And of any money raised for the purpose aforesaid by additional rate or otherwise ;
- (c) And of any money derived from any temporary investment of the sinking fund ;
- (d) And of any surplus money derived from any corporation work or any share or interest therein ;
- (e) And of any unappropriated money in the treasury ;

Such moneys respectively not having been otherwise appropriated.

2. The by-law making the appropriations shall distinguish the several sources of the amount, and the portions thereof to be respectively applied for the interest and for the sinking fund appropriation of the debt for such next ensuing year.

3. In case the moneys so retained at the credit of the special rate account, and so appropriated to the sinking fund account, from all or any of the sources above mentioned, are sufficient to meet the sinking fund appropriation and interest for the next ensuing year, the council may then pass a by-law directing that the original rate for such next ensuing year be not levied. 46 V. c. 18, s. 371.

370.—(1) The by-law shall not be valid unless it recites—

- (a) The original amount of the debt, and in brief and general terms, the object for which the debt was created ;
- (b) The amount, if any, already paid of the debt ;
- (c) The annual amount of the sinking fund appropriation required in respect of such debt ;
- (d) The total amount, then on hand, of the sinking fund appropriations, in respect to the debt, distinguishing the amount thereof in cash in the treasury from the amount temporarily invested ;
- (e) The amount required to meet the interest of the debt for the year next after the making of such anticipatory appropriation ; and
- (f) That the council has retained at the credit of the special rate account of the debt a sum sufficient to meet the next year's interest (naming the amount of it), and that the council has carried to the credit of the sinking fund account a sum sufficient to meet the sinking fund appropriation (naming the amount of it) for such year.

(2) No such by-law shall be valid unless approved by the Lieutenant-Governor in Council. 46 V. c. 18, s.372.

371. After the dissolution of any municipal union, the senior municipality may make an anticipatory appropriation for the relief of the junior municipality, in respect of any debt secured by the by-law, in the same manner as the senior municipality might do on its own behalf: 46 V. c. 18, s. 373.

RESPECTING FINANCE.

372. The council of every municipal corporation shall keep in its books two separate accounts, one for the special rate, and one for the sinking fund or for instalments of principal of every debt, to be both distinguished from all other accounts in the books by some prefix designating the purpose for which the debt was contracted, and shall keep the said accounts, with any others that are necessary, so as to exhibit, at all times, the state of every debt, and the amount of moneys raised, obtained and appropriated for payment thereof. 46 V. c. 18, s. 374.

373. If, after paying the interest of a debt and appropriating the necessary sum to the sinking fund of such debt, or in payment of any instalment of principal, for any financial year, there is a surplus at the credit of the special rate account of such debt, such surplus shall so remain, and may be applied, if necessary, towards the next year's interest; but if such surplus exceeds the amount of the next year's interest, the excess shall be carried to the credit of the sinking fund account, or in payment of principal of such debt.

(2) Provided always that any moneys levied and collected for the purpose of a sinking fund, shall not in any case be applied towards paying any portion of the current or other expenditures of the municipality, save as may be otherwise authorized by this or any other Act.

(3) In the event of the council of any municipality diverting any of said moneys for such current or any other expenditure, save as aforesaid, the members who vote for the diverting of said moneys shall be personally liable for the amount so diverted, and said amount may be recovered in any court of competent jurisdiction; and the members who may have voted for the same, shall be disqualified for holding any municipal office for the period of two years. 46 V. c. 18, s. 375. 54 V. c. 42, s. 12.

374. The Lieutenant-Governor in Council may, by direct that any such part of the produce of the rate levied, and at the credit of the sinking fund or of the special rate account as aforesaid, instead so invested as hereinafter provided, shall from

time to time, as the same accrues, be applied to the payment or redemption, at such value as the said council can agree for, or of any part of such debt or of any of the debentures representing or constituting such debt, or any part of it, though not then payable, to be selected as provided in such order, and the municipal council shall thereupon apply, and continue to apply, such part of the produce of the special rate at the credit of the sinking fund, or special rate accounts, as directed by such order. 46 V. c. 18, s. 876.

375.—(1) If any part of the produce of the special rate levied in respect of any debt, and at the credit of the sinking fund account, or of the special rate account thereof, cannot be immediately applied towards paying the debt, by reason of no part thereof being yet payable, the council shall, from time to time, invest the same in government securities, municipal debentures, or in first mortgages on real estate held and used for farming purposes, and being the first lien on such real estate, or in local improvement debentures of the municipality, or in such other manner as the Lieutenant-Governor in Council may by general or special order direct, or in any other debentures of the municipality which may be approved of by the Lieutenant-Governor in Council by such order; and from time to time, as such securities mature, may invest in other like securities; no sum so invested in mortgages shall exceed two-thirds of the value of the real estate on which it is secured according to the last revised and corrected assessment roll at the time it is invested.

(2) The council of such municipality may regulate, by by-law, the manner in which such investments shall be made.

(3) It shall not be necessary that any local improvement or other debentures of the municipality referred to in this section shall have been disposed of by the council, but the council may apply the sinking fund to an amount equal to the amount of such debentures for the purpose to which the proceeds of such debentures may be properly applicable, and shall hold the debentures as an investment on account of the sinking fund, and deal with the same accordingly. 47 V. c. 32, s. 9.

376. Any council may direct, by by-law, that any surplus moneys in the hands of the treasurer, and not specified.—9

ally appropriated to any other purpose, shall be credited to the sinking fund account of any debenture debt of the municipality, and the council may invest such sinking fund account in any of the securities named in, and according to the provisions of, the preceding section. 46 V. c. 18, s. 378.

377. Every such council may appropriate to the payment of any debt the surplus income derived from any public or corporation work, or from any share or interest therein, after paying the annual expenses thereof, or any unappropriated money in the treasury, or any money raised by additional rate; and any money so appropriated shall be carried to the credit of the sinking fund of the debt, or in payment of any instalment accruing due. 46 V. c. 18, s. 379.

378.—(1) A municipal corporation having surplus moneys derived from "The Ontario Municipalities Fund," or from any other source, may, by by-law, set such surplus apart for educational purposes, and invest the same, as well as any other moneys held by such municipal corporation for, or by it lawfully appropriated to, educational purposes, in public securities of the Dominion, municipal debentures, or in first mortgages on real estate held and used for farming purposes, and being the first lien on such real estate, and from time to time, as such securities mature, may invest in other like securities, or in the securities already authorized by law, as may be directed by such by-law, or by other by-laws passed for that purpose.

(2) No sum so invested shall exceed two-thirds of the value of the real estate on which it is secured, according to the last revised and corrected assessment roll, at the time it is so invested. 46 V. c. 18, s. 380.

379. Any municipal corporation having surplus moneys set apart for educational purposes, may, by by-law, invest the same in a loan or loans, to any board of school trustees within the limits of the municipality, for such term or terms, and at such rate or rates of interest as may be agreed upon by and between the parties to such loan or loans respectively, and may be set forth in such by-law; or may by by-law grant any portion of such moneys, or other general funds, by way of gift to aid poor school sections within the municipality. 46 V. c. 18, s. 381.

380. No member of a municipal corporation, shall take part in, or in any way be a party to, the investment of such moneys as are mentioned in this Act, by or on behalf of the corporation of which he is a member, otherwise than is authorized by this Act, or by any other law in that behalf made and provided, and such person so doing shall be held personally liable for any loss sustained by the corporation. 46 V. c. 18, s. 382.

381. The treasurer of any municipality for which any sum of money has been raised on the credit of the Consolidated Municipal Loan Fund, shall, so long as any part of such sum, or of the interest thereon, remains unpaid by the municipality, transmit to the Treasurer of Ontario, on or before the 15th day of January in every year, a return certified on the oath of the treasurer before some Justice of the Peace, containing the amount of taxable property in the municipality according to the then last assessment roll or rolls; a true account of all the debts and liabilities of the municipality, for every purpose, for the then last year; and such further information and particulars, with regard to the liabilities and resources of the municipality, as the Lieutenant-Governor in Council may from time to time require, under a penalty, in case of neglect or refusal to transmit the return, account, information of particulars, of \$100, to be recovered, with costs, as a debt due to the Crown. 46 V. c. 18, s. 383.

382. Every council shall, on or before the 31st day of January in each year, under a penalty of \$20 in case of default, to be paid to the Treasurer of Ontario, transmit to the Lieutenant-Governor through the Minister of Agriculture, an account, in such form as may be prescribed from time to time by the Lieutenant-Governor in Council, of the several debts of the corporation, as they stood on the 31st day of December preceding, specifying in regard to every debt of which a balance remained due at that day:

1. The original amount of the debt;
2. The date when it was contracted;
3. The days fixed for its payment;
4. The interest to be paid therefor;
5. The rate provided for the redemption of the debt and interest;

6. The proceeds of such rate for the year ending on such 31st day of December ;

7. The portion (if any) of the debt redeemed or paid during such year ;

8. The amount of interest (if any) unpaid on such last mentioned day ; and

9. The balance still due of the principal of the debt. 46 V. c. 18, s. 384. 53 V. c. 12, s. 1 ; c. 50, s. 10.

COMMISSION OF INQUIRY INTO FINANCES.

383. In case one-third of the members of any council, or thirty duly qualified electors of the municipality, petition for a commission to issue under the Great Seal, to inquire into the financial affairs of the corporation, and things connected therewith, and if sufficient cause is shown, the Lieutenant-Governor in Council may issue a commission accordingly, and the commissioner or the commissioners, or such one or more of them as the commission empowers to act, shall have the same power to summon witnesses, enforce their attendance, and compel them to produce documents and to give evidence, as any Court has in civil cases. 46 V. c. 18, s. 385.

384. The expenses to be allowed for executing the commission shall be determined and certified by the Treasurer of Ontario, and shall thenceforth become a debt due to the commissioner or commissioners by the corporation, and shall be payable within three months after demand thereof made by the commissioner or by any one of the commissioners, at the office of the treasurer of the corporation. 46 V. c. 18, s. 386.

NOTE.—See sec. 477, Investigation by County Judge.

ARBITRATIONS.

385. The appointment of all arbitrators shall be in writing under the hands of the appointers, or in case of a corporation, under the corporate seal, and authenticated in like manner as a by-law. 46 V. c. 18, s. 387.

386. The arbitrators on behalf of a municipal corporation shall be appointed by the council thereof, or by the head thereof, if authorized by a by-law of the council. 46 V. c. 18, s. 388.

387. In cases where arbitration is directed by this Act, either party may appoint an arbitrator, and give notice thereof in writing to the other party, calling upon such party to appoint an arbitrator on behalf of the party to whom such notice is given. A notice to a corporation shall be given to the head of the corporation. 46 V. c. 18, s. 889.

388. The two arbitrators appointed by or for the parties shall, within seven days from the appointment of the lastly named of the two arbitrators appoint, in writing, a third arbitrator. 46 V. c. 18, s. 890.

389. In cases where more than two municipalities are interested, each of them shall appoint an arbitrator, and in such case, if there is an equality of arbitrators, the arbitrators so appointed shall appoint another arbitrator, or in default, at the expiration of twenty-one days after such arbitrators have been appointed, the Lieutenant-Governor in Council may, on the application of any one of the municipalities interested, appoint such arbitrator. 46 V. c. 18, s. 891.

390. In case of an arbitration between municipal corporations, if for twenty-one days, or in case the arbitration is respecting drainage works, then, if for twenty days after having received such notice, the party notified omits to appoint an arbitrator; or if, for seven days after the second arbitrator has been appointed, the two arbitrators omit to appoint a third arbitrator, then, in case the arbitration is between townships or between a township and a town or an incorporated village, the Judge of the County Court of the county within which the townships, town or incorporated village are or any of them is situate, may, or in case the arbitration is between other municipalities, the Lieutenant-Governor in Council may appoint an arbitrator for the party or arbitrators in default, or a third arbitrator, as the case may require. 46 V. c. 18, s. 892; 52 V. c. 36, s. 14.

391. In case of an arbitration between a municipal corporation and the owners or occupiers of, or other persons interested in, real property entered upon, taken or used by the corporation in the exercise of any of its powers, or injuriously affected thereby, if, after the passing of the by-law, any person interested in the property appoints, and

gives due notice to the head of the council of his appointment of, an arbitrator to determine the compensation to which such person is entitled, the head of the council shall, if authorized by by-law, within seven days appoint a second arbitrator, and give notice thereof to the other party, and shall express clearly in the notice what powers the council intends to exercise with respect to the property, describing it. 46 V. c. 18, s. 393.

392. In any such arbitration, if after service upon the the owner or occupier of or any person interested in the property of a copy of the by-law (certified to be a true copy under the hand of the clerk of the council) together with a notice in writing of the appointment of an arbitrator on behalf of the corporation, such owner, occupier or person interested does not within twenty-one days appoint an arbitrator on his behalf and give notice thereof to the said council, the corporation may (except in the case provided for in section 398) apply to the Judge of the County Court of the county in which the municipality lies to appoint an arbitrator on behalf of such owner, occupier or person interested in the property as provided in section 394.

393. In case there are several persons having distinct interests in property in respect of which the corporation is desirous of exercising the powers referred to in section 391 under a by-law in that behalf passed, whether such persons are all interested in the same piece of property, or some or one in a part thereof, and some or one in another part thereof, and in case the by-law or any subsequent by-law provides that the claims of all should, in the opinion of the council, be disposed of by one award, such persons shall have twenty-one (instead of seven) days to agree upon, and give notice of, an arbitrator jointly appointed in their behalf before the County Court Judge shall have power to name an arbitrator for them. 46 V. c. 18, s. 395.

394. If such owner, occupier or person so interested, or the head of such council, whether from want of authority in that behalf, or otherwise, omits to name an arbitrator within seven days after receiving notice to do so, or if the persons having distinct interests as aforesaid omit to name an arbitrator within twenty-one days after receiving notice to do so, or if the two arbitrators do not within seven days from the appointment of the lastly named of the two arbitrators agree on a third arbitrator, or if any of the

arbitrators refuse or neglect to act, the Judge of the County Court of the county in which the property is situated, on the application of either party, shall nominate as an arbitrator a fit person, resident without the limits of the municipality in which the property in question is situated, to act for the party failing to appoint, or as such third arbitrator, or in the stead of the arbitrator refusing or neglecting to act, and such arbitrators shall forthwith proceed to hear and determine the matters referred to them. 46 V. c. 18, s. 396.

395. In any of the cases herein provided for the arbitrators shall make their award within one month after the appointment of the third arbitrator. 46 V. c. 18, s. 397.

396.—(1) No member, officer or person in the employment of any corporation which is concerned or interested in any arbitration, nor any person so interested, shall be appointed or act as an arbitrator in any case of arbitration under this Act. 46 V. c. 18, s. 398.

(2) Nothing in this section contained shall prevent the appointment of or disqualify as an arbitrator any person by reason merely that such person is a ratepayer of or within any municipality concerned or interested in the arbitration unless the arbitration relates to drainage under the provisions of this Act, or *The Ontario Drainage Act*. 48 V. c. 39, s. 9.

397. Every arbitrator before proceeding to try the matter of the arbitration shall take and subscribe the following oath (or, in case of those who by law affirm, make and subscribe the following affirmation) before any Justice of the Peace :

"I (A.B.) do swear (or affirm) that I will well and truly try the matters referred to me by the parties, and a true and impartial award make in the premises, according to the evidence and my skill and knowledge. So help me God.

46 V. c. 18, s. 399.

398. The arbitrators shall, within twenty days after the appointment of the third arbitrator, meet at such place as they may agree upon, to hear and determine the matter in dispute, with power to adjourn from time to time, and shall make their award in writing, and, if the arbitration

is respecting drainage works, in triplicate, which shall be binding on all parties, and one copy thereof shall be filed with the clerk of each of the municipalities interested, and one shall, in case the arbitration is respecting drainage works as aforesaid, be filed with the registrar for the registry division in which the lands affected are situate. 46 V. c. 18, s. 400.

399. The arbitrators shall have power to award the payment by any of the parties to the other of the costs of the arbitration, or of any portion thereof, and may either direct the payment of a fixed sum, or that the costs should be taxed on either the scale of the High Court, or of the County Courts, in which case the costs shall be taxed by the officer, in the county, of the proper Court, without any further order, and the amount shall be payable one week after taxation. Revision by the principal officer at Toronto may be had upon one week's notice and an appeal to a Judge in the usual manner. 46 V. c. 18, s. 401.

400. In case of a difference between the arbitrators, the decision of the majority of them shall be conclusive. 46 V. c. 18, s. 402.

401. In case of an award under this Act, which does not require adoption by the council, or in case of an award to which a municipal corporation is a party, and which is to be made in pursuance of a submission containing an agreement that this section of this Act should apply thereto, the arbitrator or arbitrators shall take, and immediately after the making of the award shall file, with the clerk of the council, for the inspection of all persons interested, full notes of the oral evidence given on the reference, and also all documentary evidence or a copy thereof; and in case they proceed partly on a view, or any knowledge or skill possessed by themselves or any of them, they shall also put in writing a statement thereof, sufficiently full to allow the Court to form a judgment of the weight which should be attached thereto. 46 V. c. 18, s. 408.

(2) The said arbitrator, or arbitrators, shall also at the same time file with the said clerk a certificate of each of the said arbitrators, showing the number of hours actually occupied by him, or them, in the said arbitration, and verifying in detail the number of hours so occupied at each

sitting of the said arbitrator or arbitrators with the date of each such sitting, and the fees charged by said arbitrators in respect of such sitting.

NOTE.—The personal knowledge or skill possessed by the arbitrators might be estimated by themselves as of greater value or importance than the oral evidence submitted, hence the provision that a statement of any such knowledge or skill upon which any opinion or conclusion has been based is to be added in writing, in order that the Court may determine the importance to be attached thereto.

402. In case the award relates to property to be entered upon, taken or used as mentioned in section 391, and in case the by-law did not authorize or profess to authorize any entry or use to be made of the property before an award has been made, except for the purpose of survey, or in case the by-law did give or profess to give such authority, but the arbitrators find that such authority had not been acted upon, the award shall not be binding on the corporation unless it is adopted by by-law, within three months after the making of the award; and if the same is not so adopted, the original by-law shall be deemed to be repealed, and the property shall stand as if no such by-law had been made, and the corporation shall pay the costs of the arbitration. 46 V. c. 18, s. 404; 58 V. c. 50, s. 12.

403.—(1) An award not binding upon the council until adoption, as mentioned in the last preceding section, shall, if adopted, be subject to the jurisdiction of the Court, and to review on the merits, at the instance of the person whose property is affected or taken, in the same manner as is provided by the next following section of this Act, in respect of any award not requiring adoption, and the provisions of sections 401 and 404 shall hereafter extend to every such award.

(2) The award may be moved against within one month (excluding vacations) next after the adoption thereof. 47 V. c. 82, s. 10 (1-2).

404. Every award made under this Act shall be in writing under the hands of all or two of the arbitrators, and shall be subject to the jurisdiction of the High Court,

as if made on a submission by a bond containing an agreement for making the submission a rule or order of such Court; and in the cases provided for by section 401, the Court shall consider not only the legality of the award but the merits as they appear from the proceedings so filed as aforesaid, and may call for additional evidence, to be taken in any manner the Court directs, and may, either without taking such evidence or after taking such evidence, set aside the award, or remit the matters referred, or any of them, from time to time, to the consideration and determination of the same arbitrators, or to any other persons whom the Court may appoint, as prescribed in *The Act respecting Arbitrations and References*, and fix the time within which such further or new award shall be made, or the Court may itself increase or diminish the amount awarded or otherwise modify the award, as the justice of the case may seem to require. 46 V. c. 18, s. 405.

NOTE.—For the Act respecting Arbitrations and References see R. S. O. c. 53.

DEBENTURES AND OTHER INSTRUMENTS.

405. All debentures and other instruments duly authorized to be executed on behalf of a municipal corporation shall, unless otherwise especially authorized or provided, be sealed with the seal of the corporation, and be signed by the head thereof, or by some other person authorized by by-law to sign the same, otherwise the same shall not be valid, and it shall be the duty of the treasurer of the municipality to see that the money collected under the by-law is properly applied to the payment of the interest and principal of the debentures. 46 V. c. 18, s. 406.

406. Debentures issued in aid of any railway, or for any bonus, signed or endorsed and countersigned as directed by the by-law, shall be valid and binding on the corporation without the corporate seal thereto, or the observance of any other form with regard to the debenture than such as may be directed in the by-law. 46 V. c. 18, s. 407.

407. Debentures issued under the authority of any by-law promulgated under this Act, or any former Municipal Act, shall be valid and binding upon the corporation, notwithstanding any insufficiency in form or otherwise of such by-law, or in the authority of the corporation in respect thereof; Provided that the by-law has received the assent of the electors where necessary, and no successful application has been made to quash the same within the time limited in the notice of promulgation. 46 V. c. 18, s. 408.

408. Where debentures were issued prior to the first day of February, 1883, by any municipality under a by-law passed by such municipality, and the interest on such debentures, and the principal of such thereof (if any) as shall have fallen due, has been paid for the period of two years or more, by the municipality, the by-law and the debentures issued thereunder, or such thereof as may yet be unpaid, shall be valid and binding upon the corporation, and shall not be quashed or set aside on any ground whatever. 46 V. c. 18, s. 409. *See sec. 852.*

409. Every debenture issued under section 612 of this Act, or under the provisions of any other Act, relating to the issue of debentures for local improvement purposes, shall bear on its face the words "Local Improvement Debenture," and shall contain a reference by date and number to the by-law under which it is issued:

Provided always, that (in order to obviate a difficulty which has been found to prevail in negotiating such local improvement debentures, in consequence of many of the same having to be issued for small and broken amounts); councils may, from time to time after the passage of the several by-laws covering the several amounts required for particular local improvements as therein specified, and without in any way affecting the liens on the lands therein named and to be improved thereby, further pass a collective or cumulative by-law consolidating such several amounts, and issue the required debentures in a general consecutive issue under such consolidated by-law, apportioning, nevertheless, the amount raised thereby, and crediting each service with the amount previously estimated and named for the same under the individual by-law passed in the first instance;

And for the purpose of more readily carrying this proviso into effect, councils desiring to avail themselves of the

same shall insert a clause in such individual by-laws, intimating that the amount of debentures to be issued thereunder is subject to consolidation, and in such case it shall be sufficient to state in said individual by-laws that the said amount of debentures to be issued thereunder shall be issued at so many years from the date of issue of the same without defining a specific date; and provided further that no consolidated debentures shall be issued covering any debentures which may have been issued or sold under any original by-law. 46 V. c. 18, s. 410.

410. Debentures to be issued by any municipal council may contain a provision in the following words:

"This debenture or any interest therein, shall not, *after a certificate of ownership has been endorsed thereon by the Treasurer of this Municipal corporation, be transferable, except by entry by the Treasurer or his deputy in the Debenture Registry Book of the said Corporation at the Town (or Village) of* *" , or to the like effect.*

46 V. c. 18, s. 411.

411. The treasurer of every municipality issuing any debentures containing the provision in the last section mentioned, shall open and keep a debenture registry book, in which he shall enter a copy of all certificates of ownership of debentures, which he may give, and also every subsequent transfer of such debenture; such entry shall not be made except upon the written authority of the person last entered in such book as the owner of such debenture, or of his executors or administrators, or of his or their lawful attorney, which authority shall be retained by the treasurer and duly filed. 46 V. c. 18, s. 412.

412. After the certificate of ownership has been endorsed as aforesaid, the debentures shall only be transferable by entry, by the treasurer of the municipality or his deputy, in such debenture registry book, from time to time, as transfers of such debentures are authorized by the then owner thereof, or his lawful attorney. 46 V. c. 18, s. 413.

413. The council of every municipality may authorize its head, with the treasurer thereof, under the seal of the corporation, to borrow from any person or bank such sums as may be required to meet the then current expenditure of the corporation, until such time as the taxes levied therefor can be collected, and the council shall, by by-law,

regulate the amounts to be so borrowed, and the promissory note or notes, covenant, or agreement to be given in security therefor. 46 V. c. 18, 414.

414. No council shall, unless specially authorized so to do, make or give any bond, bill, note, debenture or other undertaking, for the payment of a less amount than \$100; and any bond, bill, note, debenture or other undertaking issued in contravention of this section shall be void. 46 V. c. 18, s. 415.

NOTE.—In order readily to negotiate debentures, the formalities required in a by-law creating a debt must be complied with; the various restrictions and provisions mentioned in relation to each specific case must be observed (see note to s. 340); when a by-law requires the assent of electors, publication is required, then voting on by electors and final passing (if approved); afterwards, promulgation and registration (for registration see ss. 351-356, also R. S. O. c. 186). In the execution of the debentures by the head of the corporation, the corporate seal should always be attached, although by sec. 406 this form is dispensed with in case of aid or bonus to railways (see also s. 634). The treasurer is required to see to the application of the moneys collected under the by-law. By sec. 250 the duty of the treasurer is to “safely keep all moneys belonging to the corporation,” and “pay out the same to such persons and in such manner as the laws of the province and the *lawful* by-laws or resolutions of the council direct.” A treasurer would not be justified in misapplying any moneys raised for special purposes although instructed so to do by by-law of the council.

The present method of borrowing money for the various purposes mentioned in the Act is both complicated and expensive. By the use of by-laws, notices and debentures, according to forms authorized and provided by the Act, objections as to the

validity of a by-law or a debenture would cease (see s. 570, where form of by-law is provided, in case of drainage). For purposes of publication also, a *summary* of the by-law should be sufficient, as a reference to the original can always be had at the clerk's office.

ADMINISTRATION OF JUSTICE, ETC.

415. The head of every council, and the reeve of every town, township, and incorporated village, shall, *ex officio*, be Justices of the Peace for the whole county, or union of counties, in which their respective municipalities lie, and aldermen in cities shall be Justices of the Peace for such cities. 46 V. c. 18, s. 416.

416. The mayor of a town or city where there is no Police Magistrate, shall have jurisdiction, in addition to his other powers, to try and determine all prosecutions for offences against the by-laws of the town or city, and for penalties for refusing to accept office therein or to make the necessary declarations of qualifications and office. 46 V. c. 18, s. 417.

NOTE—See R. S. O., 1887, cap. 72.

417. No warden, mayor, reeve or alderman, after taking the oaths or making the declarations as such, shall be required to have any property qualification, or to take any further oath to enable him to act as a Justice of the Peace. 46 V. c. 18, s. 418.

418. Every Justice of the Peace for a county shall have jurisdiction in all cases arising under any by-law of any municipality in the county, where there is no Police Magistrate. 46 V. c. 18, s. 419.

419. In case any offence is committed against a by-law of a council, for the prosecution of which offence no other provision is made, any Justice of the Peace having jurisdiction in the locality where the offender resides, or where the offence was committed, whether the Justice is a member of the council or not, may try and determine any prosecution for the offence. 46 V. c. 18, s. 420.

419a. A magistrate is not disqualified to act as a magistrate where in case of a conviction the fine or penalty or part thereof goes to a municipality in which the magistrate is a ratepayer. 55 V. c. 48, s. 24.

420. Every fine and penalty imposed by or under the authority of this Act may, unless where other provision is specially made therefor, be recovered and enforced with costs, by summary conviction, before any Justice of the Peace for the county or the municipality in which the offence was committed; and in default of payment the offender may be committed to the common gaol, house of correction, or lock-up house of the county or municipality, there to be imprisoned for any time, in the discretion of the convicting Justice, not exceeding (unless where other provision is specially made) thirty days, and with or without hard labour, unless such fine and penalty, and costs, including the costs of the committal, are sooner paid. 46 V. c. 18, s. 421.

421. The Justice or other authority before whom a prosecution is had for an offence against a municipal by-law, may convict the offender on the oath or affirmation of any credible witness, and shall award the whole or such part of the penalty or punishment imposed by the by-law as he thinks fit, with the costs of prosecution, and may by warrant, under the hand and seal of the Justice or other authority, or in case two or more Justices act together therein, then under the hand and seal of one of them, cause any such pecuniary penalty and costs, or costs only, if not forthwith paid, to be levied by distress and sale of the goods and chattels of the offender. 46 V. c. 18, s. 422.

422. In case of there being no distress found out of which the penalty can be levied, the Justice may commit the offender to the common gaol, house of correction, or nearest lock-up house, for the term, or some part thereof, specified in the by-law. 46 V. c. 18, s. 423.

423. Unless otherwise provided, when the pecuniary penalty has been levied under this Act, one moiety thereof shall go to the informer or prosecutor, and the other moiety to the municipal corporation, unless the prosecution is brought in the name of the corporation, in which case the whole of the pecuniary penalty shall be paid to the corporation. 46 V. c. 18, s. 424.

423a. All by-laws authorized under the provisions of this Act, which have been, or which may hereafter be enacted and which have imposed or may impose fines and penalties and the recovery thereof with costs by summary conviction, and which in default of payment authorize the commitment of the offender to the common gaol, house of correction or lock-up house of the county or municipality, unless such fine and costs, including the costs of the committal and conveyance to the common gaol, house of correction or lock-up house, are sooner paid, are hereby declared to be good and valid, notwithstanding that such conviction, amongst other things, directs the imprisonment of the accused during the period for which by law he might be imprisoned, unless such costs of committal and conveyance to the common gaol, house of correction or lock-up house are sooner paid, and such conviction shall not by reason only that such direction, includes the costs of such conveyance and committal be impeached, quashed or set aside, and it is hereby declared that section 420 of this Act did and does apply to such by-laws heretofore passed and shall apply to any such by-laws hereafter to be passed. But this section shall not affect the costs of any application heretofore made to quash a conviction under any by-law heretofore passed.

2. The words "including the cost of committal" where they appear in the said section 420 include and mean and have always meant the cost of conveyance and committal to prison. This section shall come into force on the passing of this Act.

424. Upon the hearing of any information or complaint exhibited or made under this Act, the person giving or making the information or complaint shall be a competent witness, notwithstanding such person may be entitled to part of the pecuniary penalty on the conviction of the offender, and the defendant, and the wife or husband of such persons opposing or defending, shall also be competent witnesses; and all the said persons shall be compellable to give evidence on the hearing. 46 Vic. c.18, s. 425.

425. In any prosecution, action or proceeding in any civil matter to which a municipal corporation is a party, no ratepayer, member, officer or servant of the corporation shall, on account of his being such, be incompetent as a witness; but they, and every of them, shall be liable to

challenge as a juror, except where the corporation, the party to the prosecution, action or proceeding, is a county. 46 V. c. 18, s. 426.

426. In prosecuting under any by-law, or for the breach of any by-law, witnesses may be compelled to attend and give evidence in the same manner, and by the same process, as witnesses are compelled to attend and give evidence on summary proceedings before Justices of the Peace in cases tried summarily, under the statutes now in force, or which may be hereafter enacted. 46 V. c. 18, s. 427.

427. It shall not be necessary in any conviction made under any by-law of any municipal corporation, to set out the information, appearance or non-appearance of the defendant, or the evidence or by-law under which the conviction is made, but all such convictions may be in the form following:

PROVINCE OF ONTARIO, County of _____, To WIT.	}	that on the _____ day of _____ A.D. _____, in the County of _____, <i>A. B.</i> is convicted before the undersigned, one of Her Majesty's Justices of the Peace in and for the said County, for that the said <i>A. B.</i> (<i>stating the offence, and time and place, and when and where committed</i>), contrary to a certain by-law of the Municipality of the _____, in the said County of _____, passed on the _____ day of _____, A.D. _____, and intituled (<i>reciting the title of by-law</i>); and I adjudge the said <i>A. B.</i> , for his said offence, to forfeit and pay the sum of _____, to be paid and applied according to law, and also to pay to <i>C. D.</i> , the complainant, the sum of _____, for his costs in this behalf. And if the said several sums are not paid forthwith (<i>or on or before the _____ day of _____ as the case may be</i>), I order that the same be levied by distress and sale of the goods and chattels of the said <i>A. B.</i> , and in default of sufficient distress, I adjudge the said <i>A. B.</i> to be imprisoned in the Common Gaol of the said County of _____ (<i>or, in the public Lock-up at _____</i>) for the space of _____ days, unless the said several sums, and all costs and charges of conveying the said <i>A. B.</i> to such Gaol (<i>or Lock-up</i>), are sooner paid.
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BE IT REMEMBERED
day of _____ A.D. _____

Given under my hand and seal, the day and year first above written at _____, in the said County.

(L.S.)

J. M.,

J.P.

46 V. c. 18, s 428.

428. Any writ of execution against a municipal corporation may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings thereon shall then be the following:

C.M.J.—10

1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer, or leave such copy at the office or dwelling-house of that officer, with a statement in writing of the sheriff's fees, and of the amount required to satisfy the execution, including in such amount the interest calculated to some day, as near as is convenient to the day of the service ;

2. In case the amount, with interest thereon from the day mentioned in the statement, is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment rolls of the corporation, and shall, in like manner as rates are struck for general municipal purposes, strike a rate sufficient in the dollar to cover the amount due on the execution, with such addition to the same as the sheriff deems sufficient to cover the interest, his own fees, and the collector's percentage, up to the time when the rate will probably be available ;

3. The sheriff shall thereupon issue a precept or precepts, under his hand and seal of office, directed to the collector or respective collectors of the corporation, and shall annex to every precept the roll of such rate, and shall by the precept, after reciting the writ, and that the corporation had neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector or collectors, within their respective jurisdictions, to levy such rate at the time and in the manner by law required in respect of the general annual rates ;

4. In case at the time for levying the annual rates next after the receipt of such precept, the collectors have a general rate roll delivered to them for such year, they shall add a column thereto, headed "*Execution rate in A. B. vs. The Township*" (or as the case may be, adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time they are required to make the returns of the general annual rate, return to the sheriff the precept with the amount levied thereon, after deducting their percentage ;

5. The sheriff shall, after satisfying the execution and all fees thereon, pay any surplus, within ten days after

receiving the same, to the treasurer, for the general purposes of the corporation. 46 V. c. 18, s. 429.

429. The clerk, assessors and collectors of the corporation shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect, the provisions of this Act, with respect to such executions, be deemed to be officers of the Court out of which the writ issued, and as such shall be amenable to the Court, and may be proceeded against by attachment, mandamus or otherwise, in order to compel them to perform the duties hereby imposed upon them. 46 V. c. 18, s. 430.

430. The council of any municipality, upon any claim being made or action brought for damages for alleged negligence on the part of the municipality, may tender, or pay into court, as the case may be, such amount as they may consider proper compensation for the damage sustained, and in the event of the non-acceptance by the claimant of such tender or the amount paid into court, and the action being proceeded with, and a verdict being obtained for no greater amount than the amount so tendered or paid into court, the costs of suit shall be awarded to the defendants, and set off against any verdict which shall have been obtained against them. 46 V. c. 18, s. 431. *See sec. 339.*

431. In case a member of the council of any municipality, either in his own name or in the name of another, and either alone or jointly with another, enters into a contract of any kind, or makes a purchase or sale in which the corporation is a party interested, the contract, purchase or sale shall be held void in any action thereon against the corporation. 46 V. c. 18, s. 432.

432. The council of every town and city shall establish therein a police office ; and the Police Magistrate, or in his absence, or where there is no Police Magistrate, the mayor of the town or city, shall attend at such police office daily or at such times and for such periods as may be necessary for the disposal of the business brought before him as a Justice of the Peace ; but any Justice of the Peace having

jurisdiction in a town or city may, at the request of the mayor thereof, act in his stead at the police office. 46 V. c. 18, s. 433 (1).

433. The clerk of the council of every city or town, or such other person as the council of the city or town appoints for that purpose, shall be the clerk of the police office thereof, and perform the same duties and receive the same emoluments as clerks of Justices of the Peace; and in case the said clerk is paid by a fixed salary, the emoluments shall be paid by him to the municipality, and form part of its funds, and such clerk shall be the officer of and under the Police Magistrate. 46 V. c. 18, s 434.

AN ACT RESPECTING THE ASSESSMENT
OF PROPERTY.

(*R. S. O. 1887, with amendments, 1888, 1889, 1890, 1891,
1892.*)

(CONTINUED.)

To remove doubt it is hereby enacted that no sale of lands for taxes or for rates under a drainage by-law shall invalidate or in any way affect the collection of a rate assessed against or imposed or charged upon such lands prior to the date of the sale, but which shall accrue or become due and payable after the rates or taxes in respect of which the sale is had become due and payable or after the sale.

181. If the land is not redeemed within the period so allowed for its redemption, being one year exclusive of the day of sale as aforesaid, then, on the demand of the purchaser, or his assigns, or other legal representative, at any time afterwards, and on payment of \$1, the treasurer shall prepare and execute with the warden, and deliver to him or them, a deed in duplicate of the land sold, in which deed any number of lots may be included at the request of the purchaser or any assignee of the purchaser. R. S. O. 1877, c. 180, s. 148.

182. The words "treasurer" and "warden" in the preceding section shall mean the persons who at the time of the execution of the deed in such section mentioned hold the said offices. R. S. O. 1877, c. 180, s. 149.

183. The deed shall be in the form, or to the same effect as in Schedule K to this Act, and shall state the date and cause of the sale, and the price, and shall describe

the land according to the provisions of section 178 of this Act, and shall have the effect of vesting the land in the purchaser or his heirs and assigns or other legal representatives in fee simple or otherwise, according to the nature of the estate or interest sold; and no such deed shall be invalid for any error or miscalculation in the amount of taxes or interest thereon in arrear, or any error in describing the land as "patented" or "unpatented" or "held under a license of occupation." R. S. O. 1877, c. 180, s. 150.

184.—(1) The deed shall be registered in the registry office of the registry division in which the lands are situate, within eighteen months after the sale, otherwise the parties claiming under the sale shall not be deemed to have preserved their priority as against a purchaser in good faith who has registered his deed prior to the registration of the deed from the warden and treasurer. See Cap. 114, s. 78.

(2) The registrar or deputy registrar upon production of the duplicate deed, shall enter the same in the registry book, and give a certificate of such entry and registration in accordance with *The Registry Act*. R. S. O. 1877, c. 180 s. 151.

185. As respects land sold for taxes before the first day of January, 1851, on the receipt by the registrar of the proper county or place, of a certificate of the sale to the purchaser under the hand and seal of office of the Sheriff, stating the name of the purchaser, the sum paid, the number of acres and the estate or interest sold, the lot or tract of which the same forms part, and the date of the sheriff's conveyance to the purchaser, his heirs, executors, administrators or assigns, and on production of the conveyance from the sheriff to the purchaser, his heirs, executors, administrators or assigns, such registrar shall register any sheriff's deed of land sold for taxes before the 1st day of January, 1851; and the mode of such registry shall be the entering on record a transcript of such deed or conveyance. R. S. O. 1877, c. 180, s. 152.

186. As respects land sold for taxes since the 1st day of January, 1851, and prior to the 1st of January, 1866, the sheriff shall also give the purchaser or his assigns, or other legal representatives, a certificate under his hand and seal of office of the execution of the deed,

containing the particulars in the last section mentioned; and such certificate for the purpose of registration in the registry office of the proper registry division of any deed of lands so sold for taxes, shall be deemed a memorial thereof; and the deed shall be registered, and a certificate of the registry thereof shall be granted by the registrar, on production to him of the deed and certificate, without further proof; and the registrar shall for the registry and certificate thereof, be entitled to seventy cents and no more. R. S. O. 1877, c. 180, s. 153.

187. The treasurer shall enter in a book, which the county council shall furnish, a full description of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries have been made therein, shall, together with all copies of collectors' rolls and other documents relating to non-resident lands be by him kept among the records of the county. R. S. O. 1877, c. 180, s. 154.

188. If any tax in respect of any lands sold by the treasurer, in pursuance of and under the authority of the Assessment Act of 1869, or of chapter 180 of the Revised Statutes of Ontario, 1877, or of this Act, has been due for the third year or more years preceding the sale thereof, and the same is not redeemed in one year after the said sale, such sale and the official deed to the purchaser of any such lands (provided the sale be openly and fairly conducted) shall be final and binding upon the former owners of the said lands, and upon all persons claiming by, through or under them—it being intended by this Act that all owners of land shall be required to pay the arrears of taxes due thereon within the period of three years, or redeem the same within one year after the treasurer's sale thereof. R. S. O. 1877, c. 180, s. 155.

189. Whenever lands are sold for arrears of taxes, and the treasurer has given a deed for the same, such deed shall be to all intents and purposes valid and binding, except as against the Crown, if the same has not been questioned before some Court of competent jurisdiction by some person interested in the land so sold within two years from the time of sale. R. S. O. 1877, c. 180, s. 156.

190. In all cases where lands have been validly sold for taxes, the conveyance by the treasurer who made the sale,

or his successors in office, shall not be invalid by reason of the statute under the authority whereof the sale was made having been repealed at and before the time of such conveyance, or by reason of the treasurer who made the sale having gone out of office. R. S. O. 1877, c. 180, s. 157.

191. In all cases where lands are sold for arrears of taxes, whether such sale is or is not valid, then so far as regards rights of entry adverse to any *bona fide* claim or right, whether valid or invalid, derived mediately or immediately under such sale, section 9 of *The Act respecting the Law and Transfer of Property* shall not apply, to the end and intent that in such cases the right or title of persons claiming adversely to any such sale shall not be conveyed where any person is in occupation adversely to such right or title, and that in such cases the Common Law and sections 2, 4 and 6 of the statute passed in the 32nd year of the reign of King Henry VIII, and chaptered 9, be revived, and the same are and shall continue to be revived. R. S. O. 1877, c. 180, s. 158.

192.—(1) In all cases (not being within any of the exceptions and provisions of sub-section 3 to this section), where lands having been legally liable to be assessed for taxes, are sold as for arrears of taxes, and such sale or the conveyance consequent thereon is invalid by reason of uncertain and insufficient designation or description of the lands assessed, sold or conveyed, and the right or title of the tax purchaser is not valid, and the tax purchaser has entered on the lands so liable to assessment or any part thereof, and has improved the same, then in case an action for the recovery of the lands is brought against such tax purchaser and he is liable to be ejected by reason of the invalidity of such sale or conveyance, the Judge before whom the action is tried shall direct the jury to assess, or shall himself (if the case be tried without a jury), assess damages for the defendant for the amount of the purchase money at the sale and interest thereon, and of all taxes paid in respect of the lands since the sale by the tax purchaser and interest thereon, and of any loss to be sustained in consequence of any improvements made before the commencement of the action by the defendant, and all persons through or under whom he claims, less all just allowances for the net value of any timber sold off the lands, and all other just allowances to the plaintiff, and shall assess the value of the land to be recovered.

(2) If a verdict is found for the plaintiff, no writ of possession shall issue until the plaintiff has paid into Court for the defendant the amount of such damages; or, if the defendant desires to retain the land, he may retain it, on paying into Court, on or before the fourth day of the ensuing sittings, or on or before any subsequent day to be appointed by the Court, the value of the land as assessed at the trial; after which payment, no writ of possession shall issue, but the plaintiff on filing in Court for the defendant a sufficient release and conveyance to the defendant, of his right and title to the land in question, shall be entitled to the money so paid in.

(3) This section shall not apply in the following cases:

- (a) If the taxes for non-payment whereof the lands were sold have been fully paid before the sale;
- (b) If, within the period limited by law for redemption, the amount paid by the purchaser, with all interest payable thereon, has been paid or tendered to the person entitled to receive such payment, with a view to redemption of the lands;
- (c) Where on the ground of fraud or evil practice by the purchaser at such sale, a Court would grant equitable relief. R. S. O. 1877, c. 180, s. 159.

193—(1) In any of the cases named in the preceding section wherein the plaintiff is not tenant in fee simple, or fee tail, the payment into Court to be made as aforesaid, of the value of the land, by the defendant desiring to retain the land, shall be into the High Court and the plaintiff and all parties entitled to and interested in the said lands, as against the purchaser at such sale for taxes, on filing in the High Court, a sufficient release and conveyance to the defendant of their respective rights and interests to the land, shall be entitled to the money so paid in such proportions and shares as to the High Court, regarding the interests of the various parties, seems proper.

(2) In any of such cases wherein the defendant is not tenant in fee simple or fee tail, then the payment of damages into Court to be made as aforesaid by the plaintiff shall be into the High Court. R. S. O. 1877, c. 180, s. 160.

194.—(1) If the defendant does not pay into Court, the value of the land assessed as aforesaid, on or before the fourth day of the said sittings, or on or before such subsequent day as may be appointed by the Court, then any other person interested in the land under the sale or conveyances for taxes may, before the end of the said sittings, or before the expiry of ninety days from any subsequent day to be appointed by the Court for payment by the defendant, pay into Court the said value of the lands; and till the expiration of the time within which such payment may be made, and after such payment, no writ of possession shall issue.

(2) The defendant, or other person so paying in shall be entitled as against all others interested in the lands under the sale or conveyance for taxes, to a lien on the lands for such amount as exceeds the proportionate value of his interest in the lands, enforceable in such manner and in such shares and proportions as to the High Court, regarding the interests of the various parties, and on hearing the parties, seems fit. R. S. O. 1877, c. 180, s. 161.

195. In case the defendant or any other person interested, pays into Court in manner aforesaid, the plaintiff shall be entitled to the amount so paid in, on filing in Court a sufficient release and conveyance to the party so paying in, of all his right and title to the lands, in which release and conveyance it shall be expressed that the same is in trust for such party, to secure his lien as aforesaid. R. S. O. 1877, c. 180, s. 162.

196. If the said value of the lands is not paid into Court as above provided, then the amount of the damages paid into the High Court shall be paid out to the various persons, who, if the sale for taxes were valid would be entitled to the lands, in such shares and proportions as to the High Court, regarding the interests of the various parties, seems fit. R. S. O. 1877, c. 180, s. 163.

197.—(1) In all actions for the recovery of land in which both the plaintiff (if his title were good) would be entitled in fee simple or fee tail, and the defendant (if his title were good) would be also so entitled, if the defendant, at the time of appearing gave notice in writing to the plaintiff in such action or to his solicitor named on the writ, of the amount claimed, and that on payment of such amount, the defendant or

person in possession would surrender the possession to the plaintiff; or that he desired to retain the land, and was ready and willing to pay into court a sum mentioned in the said notice as the value of the land, and that the defendant did not intend at the trial to contest the title of the plaintiff; and if the jury, or the Judge, if there be no jury, before whom the action is tried, assess damages for the defendant as provided in the next preceding five sections, and it satisfactorily appears that the defendant does not contest the action for any other purpose than to retain the land on paying the value thereof, or obtain damages, the judge before whom the action is tried, shall certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence, in the same manner as if the plaintiff had been non-suited on the trial, or a verdict had been rendered for the defendant.

(2) If on the trial it is found that such notice was not given as aforesaid, or if the Judge or Jury assess for the defendant a less amount than that claimed in the notice, or find that the defendant had refused to surrender possession of the land after tender made of the amount claimed, or (where the defendant has given notice of his intention to retain the said land), that the value of the land is greater than the amount mentioned in the said notice, or that he has omitted to pay into Court the amount mentioned in the said notice for thirty days after the plaintiff had given to the defendant a written notice that he did not intend to contest the value of the land mentioned in such notice, then in such case the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff; and upon the trial of any cause after such notice, no evidence shall be required to be produced in proof of the title of the plaintiff. R. S. O. 1877, c. 180, s. 164.

198. In any case in which the title of the tax purchaser is not valid, or in which no remedy is otherwise provided by this Act, the tax purchaser shall have a lien on the lands for the purchase money paid at such sale, and interest thereon at the rate of ten per centum per annum, and for the amount of all taxes paid by him or them since such sale and the interest thereon at the rate aforesaid, to be enforced against the lands in such proportions as regards the various owners, and in such manner as the High Court thinks proper. R. S. O. 1877, c. 180, s. 165.

199. No valid contract entered into between any tax purchaser and original owner, in regard to any lands sold or assumed to have been sold for arrears of taxes, as to purchase, lease, or otherwise, shall be annulled or interfered with by this Act, but such contract shall remain in force, and all consequences thereof, as to admission of title or otherwise, as if this Act had not been passed. R. S. O. 1877, c. 180, s. 166.

200. Nothing in the next preceding ten sections of this Act contained shall affect the right or title of the owner of any lands sold as for arrears of taxes, or of any person claiming through or under him, where such owner at the time of the sale was in occupation of the land, and the same have since the sale been in the occupation of such owner, or of those claiming through or under him. R. S. O. 1877, c. 180, s. 167.

201. Nothing in the next preceding eleven sections of this Act contained shall prejudice the right or title which any purchaser at any sale for taxes, or any one claiming through or under him, has heretofore acquired or hereafter acquires under any other statute. R. S. O. 1877, c. 180, s. 168.

202. In the construction of the next preceding twelve sections of this Act, occupation by a tenant shall be deemed the occupation of the reversioner; and the words "tax purchaser" shall apply to any person who purchases at any sale under colour of any statute authorizing sales of lands for taxes in arrear, and shall include and extend to all persons claiming through or under him; and the words "original owner" shall include and extend to any person who, at the time of such sale, was legally interested in or entitled to the land sold, or assumed to be sold, and all persons claiming through or under him. R. S. O. 1877, c. 180, s. 169.

NOTE.—It is important that treasurers, clerks, assessors and collectors should carefully perform the several duties assigned to them respectively, as the omission so to do might invalidate a sale for arrears of taxes.

203. Every local municipal council, in paying over any school or local rate, or its share of any county rate, or of any other tax or rate lawfully imposed for Provincial or local purposes, shall supply, out of the funds of the municipality, any deficiency, arising from the non-payment of the tax, but shall not be held answerable for any deficiency arising from the abatements of, or inability to collect, the taxes on personal property other than for county rates. R. S. O. 1877, c. 180, s. 175.

204. In cities and towns arrears of taxes shall be collected and managed in the same way as is hereinbefore provided in the case of other municipalities; and for such purposes the municipal officers of cities and towns shall perform the same duties as the like officers in other municipalities; and the treasurer and mayor of every city or town shall, for such purposes, also perform the like duties as are hereinbefore, in the case of other municipalities, imposed on the county treasurer and warden respectively. R. S. O. 1877, c. 180, s. 185. *See* sec. 141.

205. The treasurer of every county, city and town shall keep a triplicate blank receipt book, and on receipt of any sum of money for taxes on land, shall deliver to the party making payment one of such receipts, and shall deliver to the county, city or town clerk the second of the set, with the corresponding number, retaining the third of the set in the book, the delivery of such receipts to be made to the clerk at least every three months; and the county, city or town clerk shall file such receipts, and, in a book to be kept for that purpose, shall enter the name of the party making payment; the lot on which payment is made; the amount paid; the date of payment, and the number of the receipt; and the auditors shall examine and audit such books and accounts at least once in every twelve months. R. S. O. 1877, c. 180, s. 186.

206. Upon the incorporation of any new town, in any county, the county treasurer shall make out a list of all arrears of taxes then due and unpaid in his books upon lands situate in the newly incorporated town, and transmit the same to the treasurer of the town, who, after receipt of the said list, shall have, with the mayor, all the powers possessed by the county treasurer and warden for the collection of such taxes, and for enforcement of the same.

by sale; but in such list the county treasurer shall not include any lot then advertised for sale for taxes. 44 V. c. 25, s. 11.

207. In cases where a new local municipality is formed partly from two or more municipalities situate in different counties, the collection of arrears of taxes due at the time of formation shall be made by the treasurer of the county in which the new municipality is situate, if the new municipality is a township or village, or if the new municipality is a town, by the treasurer of such town; and for the purpose of enabling him to make the collection, the treasurer or the treasurers of the other county or counties from which any portion of the new municipality is detached, shall immediately upon the formation thereof, make out lists of the arrears of taxes then due in their respective portions, and transmit the same to the treasurer of the county in which the new municipality it situate, or of the town (as the case may be); and where a new municipality is formed from two or more municipalities situate in any one county, the treasurer shall keep a separate account for such new municipality. 44 V. c. 25, s. 7.

208. The treasurer and warden of the county in which the new municipality, if it be a township or village, is situate, and the treasurer and mayor of the new municipality, if it be a town, shall have power, respectively, to take for the collection of such arrears of taxes all the proceedings which treasurers and wardens or treasurers and mayors can take for the sale and conveyance of land in arrears for taxes, and in case the lands in the new municipality have been advertised by the treasurer or treasurers of the county or counties of which the new municipality formed part before its formation, the sale of such lands shall be completed in the same manner as if such new municipality had not been formed. 44 V. c. 25, s. 8.

209. Where a municipality or part of a municipality has been or may be hereafter separated from one county and included in another after a return has been made to the treasurer of the county to which it formerly belonged, of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the former county, such treasurer shall return to the treasurer of the county to which such territory belongs a list of all the lands within

such territory returned as in arrear for taxes and not advertised; and the treasurer and warden of the county to which the territory belongs shall have power respectively to take all the proceedings which treasurers and wardens under this Act can take for the sale and conveyance of lands in arrear for taxes; but in case the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyance of lands previously sold shall be made in like manner. 44 V. c. 25, s. 9.

210.—(1) The council may, by by-law, direct that all the moneys received by the county treasurer, on account of taxes on non-resident lands, shall be paid at stated periods to the several local municipalities to which such taxes were due, or that they shall constitute a distinct and separate fund to be called the “Non-Resident Land Fund” of the country.

(2) In the absence of such by-law, the county treasurer shall pay over to the local treasurer all such moneys when so collected. R. S. O. 1877, c. 180, s. 170.

211. The treasurer shall, when such fund has been created, open an account for each local municipality with the said fund. R. S. O. 1877, c. 180, s. 171.

212. If a union of counties is about to be dissolved, all the taxes on non-residents' land imposed by by-laws of the provisional council of the junior county, shall be returned to and collected by the treasurer of the united counties, and not by the provisional treasurer; and the treasurer of the united counties shall open an account forthwith for the junior county with the non-resident land fund. R. S. O. 1877, c. 180, s. 172, *part*.

213. In cases where a new county has been or shall be formed in whole or in part from two or more municipalities situate in different counties the collection of non-resident taxes due at the time of formation in respect of lands situate in the new county which have not been advertised for sale shall be made by the treasurer of the new county and for the purpose of enabling him to make such collection, the treasurers of the other counties formerly having

jurisdiction over the respective portions of territory included in the new county shall make out lists of the non-resident taxes then due in their respective portions, and transmit the same to the treasurer of the new county. 44 V. c. 25, s. 10.

214. All sums which may at any time be paid to a municipality out of the non-resident land fund of the county, shall form part of the general funds of such municipality. R. S. O. 1877, c. 180, s. 176.

215. The council of the county may from time to time, by by-law, authorize the warden to issue, under the corporate seal, upon the credit of the non-resident land fund, debentures payable not later than eight years after the date thereof and for sums not less than \$100 each, so that the whole of the debentures at any time issued and unpaid do not exceed two-thirds of all arrears then due and accruing upon the lands in the county, together with such other sums as may be in the treasurer's hands, or otherwise invested to the credit of the said fund; and all debentures issued by the county shall be in the exclusive custody of the treasurer, who shall be responsible for their safety until their proceeds are deposited with him. R. S. O. 1877, c. 180, s. 177.

216. Such debentures shall be negotiated by the warden and treasurer of the county, and the proceeds shall be paid into the said fund, and the interest on the said debentures, and the principal when due, shall be payable out of such fund: but the purchaser of any such debentures shall not be bound to see to the application of the purchase money, or be held responsible for the non-application thereof. R. S. O. 1877, c. 180, s. 178.

217. If at any time there is not in the non-resident land fund, where such fund has been created, money sufficient to pay the interest upon a debenture or to redeem the same when due, such interest or debenture shall be payable out of the general county funds, and the payment thereof may be enforced in the same manner as is by law provided in the case of other county debentures. R. S. O. 1877, c. 180, s. 179.

218. The council of the county may from time to time pass by-laws apportioning the surplus moneys in the non-

resident land fund amongst the municipalities ratably, according to the moneys received and arrears due on account of the non-resident lands in each municipality; but such apportionment shall always be so limited that the debentures unpaid shall never exceed two-thirds of the whole amount to the credit of the fund. R. S. O. 1877, c. 180, s. 180.

219. The treasurer shall not be entitled to receive from the person paying taxes any percentage thereon, but may receive from the fund such percentage upon all moneys in his hands, or such fixed salary in lieu thereof as the county council by by-law may direct. R. S. O. 1877, c. 180, s. 181.

220. The county treasurer shall prepare and submit to the county council, at its first session in January in each year, a report, certified by the auditors, of the state of the non-resident land fund. R. S. O. 1877, c. 180, s. 182.

221.—(1) The report shall contain an account of all the moneys received and expended during the year ending on the 31st day of December next preceding, distinguishing the sums received on account of, and paid to, the several municipalities, and received and paid on account of interest or debentures negotiated or redeemed, and the sums invested and the balance in hand; a list of all debentures then unpaid, with the dates at which they will become due; and a statement of all the arrears then due, distinguishing those due in every municipality; and the amount due on lands then advertised for sale, or which by law may be advertised, during the ensuing year. R. S. O. 1877, c. 180, s. 183.

(2) The warden shall cause a copy of the report to be transmitted to the Provincial Secretary for the information of the Lieutenant-Governor. R. S. O. 1877, c. 180, s. 184.

222. The treasurer of the county shall not be required to keep a separate account of the several distinct rates which may be charged on lands, but all arrears, from whatever rates arising, shall be taken together and form one charge on the land. R. S. O. 1877, c. 180, s. 174.

223. Every treasurer and collector, before entering on the duties of his office, shall enter into a bond to the corporation.
c.m.j.—11

ration of the municipality for the faithful performance of his duties. R. S. O. 1877, c. 180, s. 187.

224. Such bond shall be given by the officer and two or more sufficient sureties, in such sum and in such manner as the council of the municipality by any by-law in that behalf requires and shall conform to all the provisions of such by-law. R. S. O. 1877, c. 180, s. 188.

225. If any treasurer, assessor, clerk, or other officer refuses or neglects to perform any duty required of him by this Act, he shall, upon conviction thereof before any Court of competent jurisdiction in the county in which he is treasurer, assessor, clerk or other officer, forfeit to Her Majesty such sum as the Court may order and adjudge, not exceeding \$100. R. S. O. 1877, c. 180, s. 189.

226. If any assessor neglects or omits to perform his duties, the other assessor, or other assessors (if there be more than one for the same locality), or one of such assessors, shall, until a new appointment, perform the duties, and shall certify upon his or their assessment roll the name of the delinquent assessor, and also, if he or they know it, the cause of the delinquency; and any council may, after an assessor neglects or omits to perform his duties, appoint some other person to discharge such duties; and the assessor so appointed shall have all the powers and be entitled to all the emoluments which appertain to the office. R. S. O. 1877, c. 180, s. 190.

227. If any clerk, treasurer, assessor or collector, acting under this Act, makes an unjust or fraudulent assessment or collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts therein the name of any person who should not be entered, or fraudulently omits the name of any person who should be entered, or wilfully omits any duty required of him by this Act, he shall, upon conviction thereof before a Court of competent jurisdiction, be liable to a fine not exceeding \$200, and to imprisonment until the fine is paid, in the common gaol of the county or city for a period not exceeding six months, or to both such fine and imprisonment, in the discretion of the court. R. S. O. 1877, c. 180, s. 191.

228. Proof, to the satisfaction of the jury, that any real property was assessed by the assessor at an actual

value greater or less than its true actual value by thirty per centum thereof, shall be *prima facie* evidence that the assessment was unjust or fraudulent. R. S. O. 1877, c. 180, s. 192.

229. An assessor convicted of having made any unjust or fraudulent assessment, shall be sentenced to the greatest punishment, both by fine and imprisonment, allowed by this Act. R. S. O. 1877, c. 180, s. 193.

230. With reference to *The Jurors' Act*, if any assessor of any township, village or ward, except in the cases provided for by sections 52 and 54 of this Act, neglects or omits to make out and complete his assessment roll for the township, village or ward, and to return the same to the clerk of such township or village, or of the city or town in which such ward is situated, or to the proper officer or place of deposit of such roll, on or before the 1st day of September of the year for which he is assessor, every such assessor so offending shall forfeit for every such offence the sum of \$200, one moiety thereof to the use of the municipality and the other moiety, with costs, to such person as may sue for the same in any Court of competent jurisdiction; but nothing herein contained shall be construed to relieve any assessor from the obligation of returning his assessment roll at the period required elsewhere by this Act and from the penalties incurred by him by not returning the same accordingly. R. S. O. 1877, c. 180, s. 194. *See also* Cap. 52, s. 171 (3).

231. If a collector refuses or neglects to pay to the proper treasurer, or other person legally authorized to receive the same, the sums contained in his roll, or duly to account for the same as uncollected, the treasurer shall, within twenty days after the time when the payment ought to have been made, issue a warrant, under his hand and seal, directed to the sheriff of the county or city (as the case may be), commanding him to levy of the goods, chattels, lands, and tenements of the collector and his sureties, such sum as remains unpaid and unaccounted for, with costs, and to pay to the treasurer the sum so unaccounted for, and to return the warrant within forty days after the date thereof. R. S. O. 1877, c. 180, s. 195.

232. The treasurer shall immediately deliver the warrant to the sheriff of the county, as the case may require. R. S. O. 1877, c. 180, s. 196.

233. The sheriff to whom the warrant is directed shall within forty days, cause the same to be executed and make return thereof to the treasurer, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation as upon writs of execution issued out of Courts of Record. R. S. O. 1877, c. 180, s. 197.

234. If a sheriff neglects or refuses to levy any money when so commanded, or to pay over the same, or makes a false return to the warrant, or neglects or refuses to make any return, or makes an insufficient return, the treasurer may, upon affidavit of the facts, apply in a summary manner to the High Court, or to a Judge thereof, for an order nisi a summons calling on the sheriff to answer the matter of the affidavit. R. S. O. 1877, c. 180, s. 198.

235. The order nisi or summons shall be returnable at such time as the Court or Judge directs. R. S. O. 1877, c. 180, s. 199.

236. Upon the return of the order nisi or summons, the Court or a Judge may proceed in a summary manner upon affidavit, and without formal pleading, to hear and determine the matters of application. R. S. O. 1877, c. 180, s. 200.

237. If the Court or Judge is of opinion that the sheriff has been guilty of the dereliction alleged against him, the Court or Judge shall order the proper officer of the Court to issue a writ of *fieri facias*, adapted to the case, directed to a coroner of the county in which the municipality is situate, or to a coroner of the city or town (as the case may be) for which the collector is in default. R. S. O. 1877, c. 180, s. 210.

238. The writ shall direct the coroner to levy of the goods and chattels of the sheriff, the sum which the sheriff was ordered to levy by the warrant of the treasurer, together with the costs of the application and of the writ and of its execution; and the writ shall bear date on the day of its issue, and shall be returnable forthwith on its being executed; and the coroner, upon executing the same, shall be entitled to the same fees as upon a writ grounded upon a judgment of the Court. R. S. O. 1877, c. 180, s. 202.

239. If a sheriff wilfully omits to perform any duty required of him by this Act, and no other penalty is hereby imposed for the omission, he shall be liable to a penalty of \$200, to be recovered from him in any Court of competent jurisdiction at the suit of the treasurer of the county, city or town. R. S. O. 1877, c. 180, s. 203.

240. All money assessed, levied and collected for the purpose of being paid to the Treasurer of the Province, or to any other public officer, for the public uses of the Province, or for any special purpose or use mentioned in the Act under which the same is raised, shall be assessed, levied and collected by and accounted for and paid over, to the same persons in the same manner, and at the same time as taxes imposed on the same property for county, city or town purposes, and shall be deemed and taken to be moneys collected for the county, city or town, so far as to charge every collector, or treasurer with the same, and to render him and his sureties responsible therefor, and for every default or neglect in regard to the same, in like manner as in the case of moneys assessed, levied and collected for the use of the county, city or town. R. S. O. 1877, c. 180, s. 204.

241. All moneys collected for county purposes, or for any of the purposes mentioned in the preceding section, shall be payable by the collector to the township, town or village treasurer, and by him to the county treasurer; and the corporation of the township, town or village shall be responsible therefor to the corporation of the county. R. S. O. 1877, c. 180, s. 205.

242. Any bond or security given by the collector or treasurer to the corporation of the township, town or village, that he will account for and pay over all moneys collected or received by him, shall apply to all moneys collected or received for county purposes, or for any of the purposes mentioned in section 240. R. S. O. 1877, c. 180, s. 206.

243. The treasurer of every township, town or village shall, within fourteen days after the time appointed for the final settlement of the collectors' rolls, pay over to the treasurer of the county all moneys which were assessed and by law required to be levied and collected in the

municipality for county purposes, or for any of the purposes mentioned in section 240 of this Act. R. S. O. 1877, c. 180, s. 207.

244. If default be made in such payment, the county treasurer may retain or stop a like amount out of any moneys which would otherwise be payable by him to the municipality, or may recover the same by an action against the municipality, or where the same has been in arrear for the space of three months, he may, by warrant under his hand and seal, reciting the facts, direct the sheriff of the county to levy and collect the amount so due with interest and costs from the municipality in default. R. S. O. 1877, c. 180, s. 208.

245. The sheriff, upon receipt of the warrant, shall levy and collect the amount, with his own fees and costs in the same manner as is provided by *The Municipal Act* in case of writs of execution. R. S. O. 1877, c. 180, s. 209.

246. The county, city or town treasurer shall be accountable and responsible to the Crown for all moneys collected for any of the purposes mentioned in section 240 of this Act, and shall pay over such moneys to the treasurer of the Province. R. S. O. 1877, c. 180, s. 210.

247. Every county, city and town shall be responsible to Her Majesty, and to all other parties interested, that all moneys coming into the hands of the treasurer of the county, city or town, in virtue of his office, shall be by him duly paid over and accounted for according to law. R. S. O. 1877, c. 180, s. 211.

248. The treasurer and his sureties shall be responsible and accountable for such moneys in like manner to the county, city or town; and any bond or security given by them for the duly accounting for and paying over moneys coming into his hands belonging to the county, city or town shall be taken to apply to all such moneys as are mentioned in section 240, and may be enforced against the treasurer or his sureties in case of default on his part. R. S. O. 1877, c. 180, s. 212.

249. The bond of the treasurer and his sureties shall apply to school moneys, and all public moneys of the Province; and in case of any default, Her Majesty may

enforce the responsibility of the county, city or town by stopping a like amount out of any public money which would otherwise be payable to the county, city or town or to the treasurer thereof, or by action against the corporation. R. S. O. 1877, c. 180, s. 213.

250. Any person aggrieved by the default of the treasurer, may recover from the corporation of the county, city or town, the amount due or payable to such person as money had and received to his use. R. S. O. 1887, c. 180, s. 214.

251. If any person wilfully tears down, injures or defaces any advertisement, notice or other document, which is required by this Act to be posted up in a public place for the information of persons interested, he shall, on conviction thereof in a summary way before any Justice of the Peace having jurisdiction in the county, city or town, be liable to a fine of \$20, and, in default of payment, or for want of sufficient distress, to imprisonment not exceeding twenty days. R. S. O. 1877, c. 180, s. 215.

252. The fines and forfeitures authorized to be summarily imposed by this Act, shall, when not otherwise provided, be levied and collected by distress and sale of the offender's goods and chattels, under authority of a warrant of distress to be issued by a Justice of the Peace of the county, city or town; and, in default of sufficient distress, the offender shall be committed to the common gaol of the county, and be there kept at hard labour for a period not exceeding one month. R. S. O. 1877, c. 180, s. 216.

253. When not otherwise provided all penalties recovered under this Act shall be paid to the treasurer to the use of the municipality. R. S. O. 1877, c. 180, s. 217.

Until other provision is made in this behalf, all proceedings for and in respect of the collection of taxes on lands in Muskoka and Parry Sound shall continue as hitherto and as if the said districts still formed part of the counties of Simcoe and Victoria respectively, anything in *The Act respecting Muskoka and Parry Sound*, to the contrary notwithstanding. 51 V. c. 30, s. 12.

Article (f) of sub-section 2 of section 2 of *The Franchise Assessment Act of 1889* is amended by adding

thereto the words following: "and the initials "F" or "T" and the initials "M F" where the party assessed has the necessary qualification shall be added in the proper column."

No person attainted or convicted of any treason or felony, or convicted of any infamous crime, unless he has obtained a free pardon or served the term of imprisonment or paid the penalty imposed under the sentence, and no person who is under outlawry shall be qualified to act as assessor or collector.

Land purchased from the Crown, and which has been mortgaged to the Crown to secure the repayment of the purchase money or some part thereof, or which is subject to any claim of the Crown for unpaid purchase money, shall be assessed, and shall be declared to have been liable to be assessed to the extent of the interest of the owner for the time being of the equity of the redemption therein, or of the purchaser (as the case may be), and this section shall apply to lands purchased from the Crown whether as represented by the Government of Canada, or as represented by the Government of this Province, and nothing herein contained shall be construed to derogate from or in any wise affect the interest of the Crown in such lands; provided that not more than six years' past arrears of taxes shall be collectable hereunder and that no sale for non-payment of taxes which has taken place heretofore shall be rendered valid by this Act, but the taxes to the extent of six years if not satisfied shall be a charge on the land and payment thereof shall be enforced by sale as in other cases.

If the treasurer of a county, city or town, sells any interest in the land of which the Crown, whether as represented by the Government of Canada or the Government of the Province of Ontario, is or was the mortgagee, or has any claim thereto on account of unpaid purchase money, he shall only sell the interest therein of the owner of the equity of redemption for the time being or the purchaser, as the case may be, and it shall be so distinctly expressed in the conveyance to be made by the treasurer and warden or mayor, and (whether so expressed or not), such conveyance shall in no wise affect the rights of the Crown in the said lands under the mortgage or otherwise, and such conveyance shall give the purchaser the same rights only in respect of the land as the owner of the equity of redemption or purchaser from the Crown enjoyed. 55 V. c. 50. ss. 25-29.

SCHEDULE A.

(Section 3.)

FORM OF NOTICE BY NON-RESIDENT OWNER OF LAND REQUIRING TO BE ASSESSED THEREFOR.

To the Clerk of the Municipality of

Take notice, that I (or we) own the land hereunder mentioned, and require to be assessed, and have my name (or our names) entered on the Assessment Roll of the Municipality of (or Ward of the Municipality of) therefor.

That my (or our) full name (or names), place of residence and Post Office address, are as follows :

A. B., of the Township of York, shoemaker, Weston Post Office (*as the case may be*). Description of land (*here give such description as will readily lead to the identification of the land*).

Dated the day of , 18 .

C. D.

Witness, G. H.

R. S. O. 1877, c. 180, Sched. A.

For Schedule B, see page 2156, R. S. O.

SCHEDULE C.

(Section 64, sub-section 14.)

FORM OF DECLARATION BY PARTY COMPLAINING IN PERSON OF OVERCHARGE ON PERSONAL PROPERTY :

I, A. B. (*set out name in full, with place of residence, business, trade, profession, or calling*), do solemnly declare that the true value of all the personal property assessable against me (*or as the case may be*), as trustee, guardian or executor, etc., without deducting any debts due by me in respect thereof, is [In case debts are owed in respect of such property; add: that I am indebted on account of such personal property in the sum of]; and that the true amount for which I am liable to be rated and assessed in respect of personal property, other than income, is

R. S. O. 1877, c. 180, Sched. C.

SCHEDULE D.

(Section 64, sub-section 14.)

FORM OF DECLARATION OF PARTY COMPLAINING IN PERSON
OF OVERCHARGE ON ACCOUNT OF TAXABLE INCOME :

I, *A. B.* (set out name in full, with place of residence, business, trade, profession or calling), do solemnly declare that my gross income, derived from all sources not exempt by law from taxation, is

R. S. O. 1877, c. 180, *Sched D.*

SCHEDULE E.

(Section 64, sub-section 14.)

FORM OF DECLARATION OF PARTY COMPLAINING OF OVER-
CHARGE IN RESPECT OF PERSONAL PROPERTY AND TAXABLE
INCOME :

I, *A. B.* (set out name in full, with place of residence, business, trade, profession or calling), do solemnly declare that the true value of my personal property, other than income is

[if there are debts, add : that I am indebted on account of such personal property in the sum of ;] that my gross income derived from all sources, not exempt by law from taxation, is ; and that the full amount for which I am by law justly assessable, in respect to both personal property and income, is

R. S. O. 1877, c. 180, *Sched. E.*

SCHEDULE F.

(Section 64, sub-section 14.)

FORM OF DECLARATION BY AGENT OF A PARTY COMPLAIN-
ING OF OVERCHARGE ON PERSONAL PROPERTY :

I, *A. B.* (set out name in full, with place of residence, business, trade, profession or calling) agent for *C. D.* (set out name in full with place of residence and calling of person assessed), do solemnly declare that the true value of all the

personal property assessable against the said *C. D.* (or as the case may be), as trustee, guardian, or executor, etc., is [In case there are debts in regard to the property, add: The said *C. D.* is indebted on account of such personal property in the sum of _____ and that the true amount for which the said *C. D.* is liable to be rated and assessed in respect of personal property other than income is _____; and that I have the means of knowing, and do know, the extent and value of the said personal *C. D.*'s property and debts in respect thereof.

A. B.

R. S. O. 1877, c. 180, Sched. F.

SCHEDULE G.

(Section 64, sub-section 14.)

FORM OF DECLARATION BY AGENT OF PARTY COMPLAINING OF OVERCHARGE ON TAXABLE INCOME:

I, A. B. (set out name in full, and place of residence, business, trade, profession or calling), agent for *C. D.* (set out name in full, with place of residence, and calling of person assessed), do solemnly declare that the gross income of the said *C. D.*, derived from all sources not exempt from taxation by law, is _____; and that I have the means of knowing, and do know, the income of the said *C. D.*

R. S. O. 1877, c. 180, Sched. G.

SCHEDULE H.

(Schedule 64, sub-section 14.)

FORM OF DECLARATION BY AGENT OF PARTY COMPLAINING OF AN OVERCHARGE IN RESPECT OF PERSONAL PROPERTY AND TAXABLE INCOME:

I, A. B. (set out name in full, with place of residence, business, trade, profession or calling), agent for *C. D.* (set out name in full, with place of residence, and calling of person assessed), do solemnly declare that the true value of the

personal property of the said *C. D.*, other than income, is ; that the gross income of the said *C. D.*, derived from all sources not exempt by law from taxation, is and that the full amount for which the said *C. D.* is justly assessable, in respect of both personal property and income, is

[*If there are debts on account of the property, add: That the said C. D. is indebted on account of such personal property in the sum of ;] and that I have the means of knowing, and do know, the truth of the matters hereinbefore declared.*

R. S. O. 1877, c. 180, *Sched. H.*

SCHEDULE K.

(*Section 183.*)

FORM OF TAX DEED.

To all to whom these presents shall come :

We, _____, of the _____ of _____, Esquire,
Warden (or Mayor), and _____ of the _____ of
Esquire, Treasurer of the County (or City or Town) of _____
, Send Greeting :

WHEREAS by virtue of a warrant under the hand of the Warden (or Mayor) and seal of the said County (or City or Town) bearing date the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, commanding the Treasurer of the said County (or City or Town) to levy upon the land hereinafter mentioned, for the arrears of taxes due thereon, with his costs, the Treasurer of the said County (or City or Town) did, on the _____ day of _____ 18 _____, sell by public auction to _____, of the _____ of _____, in the County of _____, that certain parcel or tract of land and premises hereinafter mentioned, at and for the price and sum of _____ of lawful money of Canada, on account of the arrears of taxes alleged to be due thereon upon to the day of _____, in the year of our Lord one thousand eight hundred and _____, together with costs :

Now know ye, that we, the said _____ and _____, as Warden (or Mayor), and Treasurer of the said County

(or City or Town), in pursuance of such sale, and of *The Assessment Act*, and for the consideration aforesaid, do hereby grant, bargain and sell unto the said his heirs and assigns, all that certain parcel or tract of land and premises containing , being composed of (*describe the land so that the same may be readily identified*).

In witness whereof, we, the said Warden (or Mayor) and Treasurer of the said County (or City or Town), have hereunto set our hands and affixed the seal of the said County (or City or Town), this day of in the year of our Lord one thousand eight hundred and ; and the Clerk of the County (or City or Town) Council has countersigned.

A. B., Warden (or Mayor). [Corporate Seal.]

C. D., Treasurer.

Countersigned,

E. F., Clerk.

R. S. O. 1877, c. 180, *Sched. K.*

AN ACT CONSOLIDATING AND REVISING THE PUBLIC SCHOOLS ACTS.

(54 Vic., 1891.)

(CONTINUED.)

LEGISLATIVE AND COUNTY GRANT.

122.—(1) All sums of money voted by the Legislative Assembly for the support of public and separate schools shall be apportioned annually on or before the first day of May by the Minister of Education to the several counties townships, cities, towns and incorporated villages, according to the population in each as compared with the whole population of Ontario, as shewn by the last annual returns received from the clerks of the respective counties, cities and towns separated from a county, of which apportionment due notice shall be given to the clerks of the municipalities concerned. R. S. O. c. 225, s. 136.

(2) The money so apportioned shall be payable by the Provincial Treasurer on or before the first day of July in every year to the treasurer of every county, city, town and village in such way as the Lieutenant-Governor may from time to time direct. R. S. O. c. 225, s. 137.

(8) The county council shall cause to be levied yearly upon the several townships of the county, such sums of money for public school purposes as shall be at least equal (clear of all charges of collection) to the amount of school money apportioned by the Minister of Education to the several townships of the said county for the year, such sums to be payable to the township treasurer on or before the fourteenth day of December in each year. R. S. O. c. 225, s. 141. *Part.*

NOTE.—As by R. S. O. 1887, c. 227, ss. 8, 11, 40, 62, each Separate School is entitled to receive its proportion of the Legislative grant, unconditionally, the “sums of money” to be levied yearly by the County Councils *must be paid by the public school supporters of the several townships of the county in order to secure the amount of the Legislative grant.* (3), R. S. O. c. 224, s. 4 (12). (But see the Assessment Act, s. 84). By R. S. O. c. 30, the moneys arising from the sales of Clergy Reserves are required to be paid into the hands of the Provincial Treasurer, and form a fund called The Ontario Municipalities’ Fund. Sec. 3 provided that the amount of the Municipal Fund, remaining unexpended and unappropriated under the foregoing provisions on the thirty-first day of December in each year, shall be added to the amount voted by the Legislature for the support of Public and Separate Schools for the succeeding year, and shall by the Minister of Education be included in the distribution of the Legislative grant to the several municipalities as provided by The Public Schools Act. As the amount of the Legislative grants has been *decreasing*, annually, since the above Act was passed, the municipalities do not appear to derive much benefit from the sale of Clergy Reserve lands.

123.—(1) The county inspector shall half-yearly, unless otherwise directed by the Minister of Education distribute among the school sections and divisions of each township under his jurisdiction their respective portions of the public school grant voted by the Legislative Assembly or raised by county rate according to the average attendance of pupils at each public school as compared with the whole average number of pupils attending the public schools of every such township, and all such sums shall be payable by the township treasurer to the order of the secretary or secretary-treasurer of the board of trustees on the inspector’s order. Notice of the amount payable to each school section shall be given by the inspector to the sec-

retary or secretary-treasurer of the section. R. S. O. c. 225, s. 143. (*Amended*).

(2) The county inspector shall apportion any sum voted by the Legislative Assembly for improving the fifth form of public schools as may be directed by the regulations of the Education Department. (*New*).

TREASURERS OF SCHOOL MONEYS.

124.—(1) For all school purposes in townships the township treasurer shall be considered sub-treasurers of the county treasurer: provided always that the county council may by by-law constitute the county treasurer, the sub-treasurer for such municipalities within the county as may be deemed expedient. R. S. O. c. 225, s. 141. *Part*.

(2) Every sub-treasurer shall be subject to the same responsibilities and obligations in respect to the accounting for school moneys, and the payment of lawful orders for such moneys given by any county inspector as are imposed by this Act upon every county treasurer, in respect to the paying and accounting for school moneys. R. S. O. c. 225, s. 150.

125. The treasurer and his sureties shall be responsible and accountable for school moneys to the county, city or town, and any bond or security given by them for the duly accounting for and paying over moneys coming into his hands, belonging to the county, city or town, shall be taken to apply to all public school moneys, and may be enforced against the treasurer or his sureties, in case of default on his part. R. S. O. c. 225, s. 146.

126. The bond of the treasurer and his sureties shall apply to school moneys, and all public moneys of the Province, and in case of any default, Her Majesty may enforce the responsibility of the county, city or town, either by stopping a like amount out of any public moneys payable to the county, city, or town, or to the treasurer thereof, or by action against the corporation. R. S. O. c. 225, s. 147.

127. Any person aggrieved by the default of the municipal treasurer may recover from the corporation of any

city, county or town, the amount due or payable to such person as money had and received to his use. R. S. O. c. 225, s. 148.

128. Any collector appointed by a board of trustees for the collection of school fees, or any treasurer or secretary-treasurer having the custody of school moneys, shall discharge similar duties and be subject to similar obligations and penalties and have similar powers as the like officers in the municipality. R. S. O. c. 265, 114—1a.

129. The clerk of every county shall make a return to the Minister of Education showing the population of each minor municipality within the county, and the clerk of every city and of every town separated from a county shall make a return showing the population of such city or town, as shewn by their respective assessment rolls for the previous year, said returns to be made on or before the first day of April in each year. R. S. O. c. 225, s. 140.

130.—(1) Trustees shall not be liable to any prosecution, or the payment of any damages, for acting under any by-law of a municipal council before it has been quashed.

(2) In case a by-law, order or resolution of a municipal council is illegal, in whole or in part, and in case anything has been done under it, which by reason of the illegality gives any person a right of action, no such action shall be brought until one month has elapsed after the by-law, order or resolution has been quashed or repealed, nor until one month's notice in writing of the intention to bring such action has been given to the corporation.

(3) Every such action shall be brought against the municipal corporation alone, and not against any person acting under the by-law, order or resolution. R. S. O. c. 225, s. 149.

DUTIES OF TEACHERS.

131. It shall be the duty of every teacher of a public school:—

1. To teach diligently and faithfully all the subjects required to be taught in the school, according to the terms of his engagement with the trustees, and according to the provisions of this Act and the regulations of the Education Department; R. S. O. c. 225, s. 153,—1.

2. To keep in the prescribed form the general, daily, class, or other registers of the school, and to record therein the attendance, promotion or removal of the pupils of the school; R. S. O. c. 225, s. 153,—2. (*Amended*).

3. To maintain proper order and discipline in his school, according to the prescribed regulations; R. S. O. c. 225, s. 153,—3. *Part*.

4. To keep a visitors' book (which the trustees shall provide) and enter therein the visits made to his school; R. S. O. c. 225, s. 153,—4. *Part*.

5. To give the trustees and visitors access at all times, when desired by them, to the registers and visitors' book appertaining to the school;

NOTE.—For *visitors*, see s. 184.

6. To deliver up any school register, visitors' book, school house key, or other school property in his possession, on the demand or order of the majority of the corporation employing him;

7. To hold during each term a public examination of his school, of which he shall give due notice to the trustees of the school, to any school visitors who reside in the school section and through the pupils to their parents or guardians;

8. To furnish to the Minister of Education, or to the school inspector, from the trustees report or otherwise, any information which it may be in his power to give respecting anything connected with the operations of his school, or in any wise affecting its interests or character;

9. To prepare, so far as the school registers supply the information, such reports of the corporation employing him as are required by the Education Department; R. S. O. c. 225, s. 153,—5, 6, 8, 9, 10.

10. To notify the trustees, and in case of their neglect, to notify the local board of health when the closets or out-houses belonging to the school are dangerous to the health of the pupils; (*New*).

11. To notify the medical health officer of the municipality, or where there is none to notify the local board of health whenever he has reason to believe that any pupil

attending school is affected with or exposed to small-pox, cholera, scarlatina, diphtheria, whooping-cough, measles, mumps, glanders, or other contagious disease, and to prevent the attendance of all pupils so exposed, or suspected of being exposed, until furnished with the written statement of the health officer, or of the local board of health, or of a physician, that such contagious diseases did not exist, or that all danger from exposure to any of them had passed away. R. S. O. c. 225, s. 153,—11.

AGREEMENTS.

132. All agreements between trustees and teachers shall be in writing, signed by the parties thereto, and sealed with the corporate seal of the trustees. R. S. O. c. 225, s. 151.

133. Any teacher who enters into an agreement with the trustees of any public school, and who wilfully neglects or refuses to carry out such agreement shall, on the complaint of such school trustees, be liable to the suspension of his certificate by the inspector under whose jurisdiction he may be for the time being. R. S. O. c. 225, s. 165.

134. No person engaged to teach a public school shall be deemed a qualified teacher who does not at the time of his engaging with the trustees, and during the whole period of such engagement, hold a legal certificate of qualification. R. S. O. c. 225, s. 152.

135. Every teacher who serves under an agreement with a board of trustees for three months or over shall be entitled to be paid his salary for the authorized holidays occurring during the period of such service in the proportion which the number of days during which he has taught in the calendar year, bears to the whole number of teaching days in such year. R. S. O. c. 225, s. 154. (*Amended*).

136. Every teacher shall be entitled to his salary during sickness, certified by a physician, for a period not exceeding four weeks for the entire year; this period may be increased at the pleasure of the trustees. R. S. O. c. 225, s. 157.

137. If at the expiration of a teacher's agreement with a board of trustees his salary has not been paid in full such salary shall continue to run at the rate mentioned in such

agreement until paid, provided always that an action shall be commenced within three months after such salary is due and payable by the trustees. R. S. O. c. 225, s. 158.

138. All matters of difference between trustees and teachers, in regard to salary or other remuneration shall be brought before the Division Court of the district, where the cause of action arose, subject to appeal, as provided by this Act. R. S. O. c. 225, s. 155.

139. In pursuance of a judgment or decision given by a County Judge in a Division Court, under the authority of this Act, and not appealed from, execution may issue from time to time to recover what may be due of the amount which the Judge may have decided the plaintiff entitled to, in like manner as on a judgment recorded in a Division Court for a debt, together with all fees and expenses incidental to the issuing thereof and levy thereunder. R. S. O. c. 225, s. 156.

NOTE.—No provision is made for levying a rate to satisfy the execution, as in the case of municipal corporations. (Municipal Act, ss. 428, 429).

CERTIFICATES.

140. Every certificate to teach a public school shall be ranked as of the first, second, or third class, and shall be issued only to such persons as furnish satisfactory proof of good moral character, (a) are at least eighteen years of age, (b) are natural born or naturalized subjects of Her Majesty, (c) and pass the examinations prescribed by the Education Department. R. S. O. c. 225, s. 159.

141. Certificates of the first and second class shall be granted by the Minister of Education on the report of examiners appointed by the Education Department, and shall be valid during good conduct in the Province; certificates of the third class shall be granted by the county board of examiners, and shall be valid in the Province for a period of three years. Every third class certificate shall have the signature of at least one public school inspector. R. S. O. c. 225, ss. 160, 161.

142. District certificates shall be valid only in the districts following, namely: Rainy River, Thunder Bay, Nipissing, Algoma, Parry Sound, Muskoka, Haliburton, and the counties of Victoria, Peterborough and Hastings, and all counties lying east thereof. In the districts aforesaid the board of examiners for granting such certificates shall consist of the inspector, the District Judge and Stipendiary Magistrate; and in the counties aforesaid of the county board of examiners. R. S. O. c. 225, s. 162. (*Amended*).

143.—(1) All teachers' certificates granted before the fifteenth day of February, in the year 1871, shall remain in force on the terms and conditions of the Act under which they were granted; and upon their ceasing to be valid, as provided by law, other than by the confirmation of their suspension, they may be renewed from time to time under the regulations of the Education Department.

(2) Every first-class certificate issued under any Act of this Province by a county board, before the fifteenth day of February, 1871, and valid in any city or county on the 24th day of March, 1874, shall be valid in the Province during the good conduct of the holder thereof.

(3) Every second-class certificate issued before such time, and under like authority, and valid in any city or county, on the 24th day of March, 1874, shall, when such teacher has taught for a period of not less than ten years in Ontario, continue to be valid during good conduct in such city or county. R. S. O. c. 225, s. 163 (2), (3), (4).

144.—(1) The inspector may suspend the certificate of any teacher under his jurisdiction for inefficiency, misconduct, or a violation of this Act, or of the regulations of the Education Department. In every case of suspension, he shall notify in writing the trustees concerned, and the teacher, of the reasons for such suspension. R. S. O. c. 225, s. 164.

(2) If the certificate so suspended was issued by the Chief Superintendent or Council of Public Instruction, or by the Education Department or Minister of Education, the inspector shall forthwith report to the Minister of Education, and such suspension shall continue until the case is decided by the Minister. R. S. O. c. 225, s. 166.

(3) If the certificate was granted by a county board of examiners, the inspector shall forthwith call a meeting of such county board of examiners for the consideration of such suspension, of which due notice shall be given to the teacher concerned, and the decision of such board shall be final. R. S. O. c. 225, s. 167.

COUNTY BOARDS OF EXAMINERS.

145.—(1) The municipal council of each county shall appoint a board of examiners, consisting of the inspector or inspectors having jurisdiction within the county, or any part thereof, and not more than two other persons holding first-class certificates of qualification for the purpose of examining candidates for teachers' third-class certificates and for such other purposes as may be prescribed by this Act. The Board shall hold at least one examination each year. A majority of the board shall form a quorum. R. S. O. c. 225, s. 168. (*Amended*).

(2) Where deemed necessary from the general use of the French or German language, the county council may appoint additional examiners, not exceeding two, for the purpose of conducting the examination of candidates for a teachers' certificate in either of the languages aforesaid. R. S. O. c. 225, s. 169.

(3) The treasurer of the county shall, on the requisition of the chairman of the board, pay all the incidental expenses of the examination of third-class teachers. He shall also, on a like requisition, pay each member of the board the sum of \$4 per diem and travelling expenses while engaged as examiner. R. S. O. c. 225, s. 170. (*Amended*).

(4) Every member of a county board of examiners while engaged in conducting an investigation affecting the standing of any teacher within the jurisdiction of the board shall be paid the sum of \$4 per diem and travelling expenses by the treasurer of the county. (*New*).

(5) After the passing of this Act no person shall be appointed a member of a county board of examiners who is not actually engaged in teaching, and who has not had at least three years' experience as a teacher in a public or separate school. (*New*).

MODEL SCHOOLS.

146.—(1) The board of examiners of every county shall, subject to the regulations of the Education Department, set apart at least one public school in each county as a county model school for the training of teachers for third-class certificates. .

(2) Where more model schools than one have been established in any county and where the teachers in training for the two preceding years at such school have not exceeded twenty-five, the county board of examiners may, with the approval of the Education Department discontinue one or more of such schools, but not so as to reduce the number below that required by this Act.

(3) The municipal council of each county shall pay to the treasurer of each public school within the county to which a county model school is attached, an amount at least equal to the sum voted by the Legislative Assembly for each county model school, but the amount to be provided by the county council shall not be less than the sum of \$150 annually and the council may, if it sees fit, provide a larger amount of aid. R. S. O. c. 225, s. 178. (*Amended*).

TEACHERS' INSTITUTES.

147.—(1) The teachers of one or more inspectorial districts may organize themselves into a Teachers' Institute for the purpose of receiving instruction in methods of teaching and for discussing educational matters subject to the regulations of the Education Department. (*New*).

(2) The Minister of Education may apportion out of any moneys voted by the Legislative Assembly for that purpose the sum of \$25 to each teachers' Institute organized and conducted according to the regulations of the Education Department and the municipal council of each county or city shall pay annually to the order of the president of each teachers' institute within the county or city a sum at least equal to the amount so apportioned by the Minister of Education. R. S. O. c. 225, s. 174.

LEAVING EXAMINATIONS.

148. There shall be an annual leaving examination, in the public schools on such subjects, and according to such regulations as may be prescribed by the Education Department. (*New*).

THE AGRICULTURE AND ARTS ACT,
RESPECTING THE VETERINARY
COLLEGE.

THE COUNCIL OF THE ASSOCIATION.

19. The Council of the Agriculture and Arts Association shall be composed of thirteen members, elected as herein-after provided. 49 V. c. 11, s. 19.

20. Ontario shall be divided into thirteen Agricultural Divisions, designated by numbers, and comprising the Electoral Districts, and each Division shall be represented by one member in the Council of the Association. 49 V. c. 11, s. 20.

21.—(1) Four (or five, as the case may be) members of the Council shall retire annually, in the order in which the members have been elected for the respective Divisions, each seat being vacated every third year; and the Secretary of the Association shall send a list of the names of the retiring members to the Secretary of every Electoral District Society on or before the 1st day of September in every year.

(2) The retiring members (who are eligible for re-election) may continue to exercise all their functions until their successors have been duly elected. 49 V. c. 11, s. 21.

22. The nomination of a candidate or candidates to represent an Agricultural Division in the Council shall be made in writing by ten or more members of some Electoral District Society in such Division, and forwarded to the Commissioner of Agriculture on or before the 15th day of December preceding the election; and the Commissioner

shall, on or before the 26th day of December next ensuing, mail to the Secretaries of the several District Societies in such Division the names of all persons so nominated. 49 V. c. 11, s. 22.

23.—(1) The members of the District Societies in each Division shall, at their several annual meetings provided by section 39 of this Act, elect from the persons nominated therefor one to represent their Division in the Council, each District Society having one vote, and the person receiving the largest number of votes of such District Societies shall be the member of the Council to represent the Division.

(2) In case the vote for such member results in a tie, then the District Society amongst those Societies voting for one or other of the persons in respect of whom the tie occurs which has the largest number of members, as appears by the report for the last calendar year, shall have the casting vote.

(3) Vacancies in the Council through death, resignation, or otherwise, shall be filled by the Commissioner. 49 V. c. 11, s. 23.

24.—(1) The first meeting of the Council, after the election of members in every year, shall be called by the Secretary some time during the month of February or of March; and at such meeting the members present shall elect from among themselves a President and Vice-President.

(2) The Council shall also appoint a Secretary and a Treasurer (neither of whom shall be members thereof), and may pay them reasonable salaries for their services.

(3) The regular meetings of the Council shall be held pursuant to adjournment, or be called by the Secretary at the instance of the President, or in his absence of the Vice-President, or upon the written request of any three members; and at least seven days' notice of the meetings shall be given to each member.

(4) In the absence of the President or Vice-President from any meeting, the Council may appoint a chairman *pro tempore*, and seven members shall be a quorum. 49 V. c. 11, s. 24.

25. The Council may grant to the members thereof an allowance not exceeding \$4 per day for the days on which they are actually in attendance at the meetings of the Council, and an allowance not exceeding four cents a mile for the distance necessarily travelled by the members in going to and returning from the meetings. 49 V. c. 11, s. 25.

POWERS AND DUTIES OF THE COUNCIL.

26. The Council shall continue to be a body corporate, and may acquire and hold land and personal property for the purposes of the Association, and may sell, mortgage, lease, or otherwise dispose of the same; and all property, real or personal, heretofore vested in or held by the Agriculture and Arts Association shall continue to be vested in the Association, and under the control of the Council thereof. 49 V. c. 11, s. 26.

27. The Council shall have full power to act for and on behalf of the Association; and all grants of money, subscriptions or other funds made or appropriated to or for the use of the Association (except money collected by or granted to any local committee for any special objects), shall be received by and expended under the direction of the Council. 49 V. c. 11, s. 27.

28. It shall be the duty of the Council to take measures for the promotion of Agriculture and the useful Arts in the Province in any or all of the following ways, namely:

1. By holding agricultural meetings and shows of stock, implements, farm and horticultural products, machinery, manufactures and other works of art, either by themselves or under joint management with other Associations, whether the other Associations are incorporated under this Act or otherwise.

2. By aiding exhibition associations in accomplishing the same objects, by the granting of medals, prizes or other awards of merit.

3. By offering prizes for the best-managed farms, farm buildings, dairies, gardens, orchards, or vineyards.

4. By holding or aiding ploughing matches, and by the testing of agricultural implements and machinery.

5. By encouraging the planting of trees and the study of forestry.

6. By introducing and testing new varieties of grain, seeds, vegetables, or other agricultural productions.

7. By introducing or aiding in the introduction of new and improved breeds of animals, either from other countries or provinces, or from one part of the Province into another.

8. By offering premiums for reports on the breeding, rearing and feeding of animals, the management of the dairy, the production of wool, the improvement of agriculture and agricultural machinery and implements, the growth of timber, the adaptability of particular localities for particular branches of agriculture, the erection of farm buildings, fencing, draining, and other subjects relating to agriculture or the useful arts.

9. By causing, or aiding in causing, lectures to be delivered on such subjects and at such places as may be deemed in the interest of agriculture.

10. By keeping registers of pure bred stock, either by themselves or conjointly with other Associations, or bodies corporate.

11. And generally by adopting every means in their power to promote improvement in agriculture and the useful arts in the Province. 49 V. c. 11, s. 28.

29. The Council shall keep a record of their transactions, and may from time to time publish, in such manner and form as to secure the widest circulation among the Agricultural Societies, and among farmers generally, all such reports, essays, lectures, and other useful information as the Council may procure and adjudge suitable for publication. 49 V. c. 11, s. 29.

30. On or before the 1st day of February in every year the Council shall transmit to the Department a report for the preceding calendar year, wherein shall be embraced a record of their transactions, a detailed financial statement verified by the Auditors, a list of all persons to whom prizes have been awarded, either for exhibits at the Provincial Fair or for other objects, such information as they

have obtained of progress made during the year in the several departments of the Fair as compared with previous years, and generally such means as have been used and measures taken by the Council under section 28 of this Act to promote improvement in agriculture and the useful arts. 49 V. c. 11, s. 30.

31. The corporation of a city or town may enter into an agreement with the Council, binding such corporation to erect buildings necessary for holding the annual exhibition of the Association ; and in consideration thereof the Council may select such corporation as the one within whose territorial limits their exhibition shall be held ; but in the event of such corporation failing to enter into a binding agreement as aforesaid on or before the first day of May in the year for holding such exhibition, the Council may change the place for holding the same, or may dispense with an exhibition for that year. 49 V. c. 11, s. 31.

32. The Council shall, on or before the 15th day of December in each year, submit for the approval of the Lieutenant-Governor in Council an estimate of the sums required for the purposes of the Association for the ensuing year, giving in detail in such estimate as far as possible the particular object or objects to which the money is to be applied and the amount required for each. 49 V. c. 11, s. 32.

33. The Council shall, on or before the first day of October in each year fix the date at which the next annual exhibition shall be held. 49 V. c. 11, s. 33.

THE VETERINARY COLLEGE.

34—(1) The Council may establish a veterinary College for the instruction of pupils, by competent and approved teachers, in the science and practice of the veterinary art, and may pass by-laws and adopt measures for the examination of pupils in Anatomy, Physiology, Materia Medica, Therapeutics, Chemistry, and as to the breeding of domesticated animals ; and upon proof, to the satisfaction of the Council, that such pupils possess the requisite qualifications, may grant diplomas certifying that they are competent to practise as Veterinary Surgeons.

(2) Veterinary practitioners holding such diplomas shall be entitled to professional fees in attending any Court of Law as witnesses in such cases as relate to the profession ; and no person who does not possess a diploma or proper certificate from some duly authorized Veterinary College, within or without this Province, shall append to his name the term Veterinary Surgeon, or an abbreviation thereof.

(3) Any person who wilfully and falsely pretends to be, or who wilfully and falsely takes or uses any name, title, addition, abbreviation or description implying or calculated to lead people to infer that he is, or is recognised by law as, a Veterinary Surgeon, within the meaning of the foregoing sub-sections of this section, or that he possesses a diploma or proper certificate from some duly authorized Veterinary College within or without the Province, shall, upon summary conviction before a Justice of the Peace, pay a penalty not exceeding \$100, and not less than \$25.

(4) All prosecutions under this section may be brought and heard before and by any Justice of the Peace having jurisdiction in the locality where the offence is alleged to have been committed, and the Justice shall have power to award payment of costs in addition to the penalty ; and, in case the penalty and costs awarded by him are not upon conviction forthwith paid, to commit the offender to the common gaol, there to be imprisoned for any term not exceeding three months, unless the penalty and costs are sooner paid.

(5) All penalties recovered under this section shall be paid to the convicting Justice, and be paid by him to the Treasurer of the Agriculture and Arts Association, and shall thereupon form part of the funds of the said Association, and be accounted for as such.

(6) Any person convicted under this section who gives notice of appeal against the decision of the convicting Justice shall, before being released from custody, give to the said Justice satisfactory security for the amount of the penalty and costs of conviction and appeal.

(7) The Council or any person may be prosecutor or complainant under this section, and every prosecution thereunder shall be commenced within one year from the date of the alleged offence. 49 V. c. 11, s. 34.

53 VICTORIA, CHAPTER 65.

An Act to make further provisions for preventing the spread of Contagious Diseases among Horses.

[Assented to 7th April, 1890.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Where the words following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :

“Veterinarian” means a veterinary surgeon duly registered by the Council of the Agriculture and Arts Association of Ontario.

“Veterinary Inspector” means any veterinarian specially appointed by the Government of Ontario.

“Inspector” means any inspector appointed by the Government of Ontario or by a municipality.

“Place” means and includes any public highway, street, road, lane, alley, way, or other communication, any public place or square, also any common, field, stable, shed, or any and all premises where any disease under this Act is found to exist or to have existed.

“Horse” means a stallion or mare.

“Disease” means equine syphilis or other malignant venereal disease.

2. Where it appears to any person that any horse is affected with disease such person shall at once notify the Minister of Agriculture by transmitting to him a declaration made before a justice of the peace, commissioner, or notary public, that he has reason to believe that such horse is affected with disease, and shall also notify any other person known to such person to have jurisdiction in the matter. Any person who maliciously and without reasonable and probable cause gives the notice mentioned in this section, shall be liable to a penalty of not less than \$25 nor more than \$50.

3. Where the owner or other person having charge of a horse has reason to suspect the existence of disease in said horse, he shall at once take all reasonable precaution to prevent the spread of disease to other horses until it has been determined by a veterinary inspector that the horse is free from disease.

4. Where it appears to any inspector under this Act that any horse is affected with disease, he shall at once notify the owner or other person in charge of such horse, and shall also at once report the matter to the Department of Agriculture.

5. Where it appears to any inspector appointed under this Act that a horse is affected with disease, he shall cause the same to be safely kept where it will not be brought into contact with, or be in danger of transmitting the disease to other horses.

6. The Minister of Agriculture may from time to time appoint an inspector or inspectors under this Act. Veterinary inspectors appointed under this Act shall perform their duties within the limits of the district assigned to them under this Act. They may further, when so directed by the Minister, carry out any order or regulation made under this Act, in any other part of the Province than that for which they are specially appointed.

7. Any inspector under this Act shall have power to enter in or upon any premises in the performance of any duty laid upon him by this Act, or any regulation made under the provisions of this Act, and may call upon any constable or other person to aid him, under penalty herein-after mentioned for default in so doing, in executing any action taken under this Act, or any regulation made under this Act.

8. Wherever it shall appear proper, the Minister of Agriculture may direct any veterinary or other inspector under this Act, to examine into any alleged outbreak of the said disease; to cause such scientific investigations to be made with a view to determining the nature and source of the outbreak as under the circumstances are deemed necessary, and to take (in case the investigation shows reasonable grounds for so doing) such measures for its suppression or limitation as are laid upon him by this Act, or by any regulations made under the provisions of this Act.

9.—(1) The council of any county, city, or town separated from a county for municipal purposes, may, by by-law, make provision for the inspection and examination by competent veterinarians of all horses, or may limit the operation of such by-law to stallions alone intended for breeding purposes during any year, in such county, city, or town; the examination being for the purpose of ascertaining whether such horses or stallions are free from disease. The said council may also prescribe such regulations as may seem desirable in connection with the examination, and also direct how the expenses of the examination shall be paid.

(2) Where no by-law has been passed by any county under the preceding sub-section, the council of any township or incorporated village situate in such county may pass a by-law for the purposes mentioned in such sub-section; Provided that if the county council shall afterwards pass such by-law, the by-law in force in any township or village in said county shall become inoperative.

10. The Lieutenant-Governor in Council may from time to time make such regulations under this Act as may seem necessary for the carrying out of its provisions.

11. The certificate of a veterinary inspector to the effect that an animal is affected with disease, shall for the purposes of this Act, be *prima facie* evidence in all courts of justice and elsewhere of the matter certified.

12. Every penalty imposed by this Act shall be recoverable with costs, before any justice of the peace, having jurisdiction, or any magistrate having the powers of two justices of the peace under *The Act respecting Summary Convictions before Justices of the Peace*.

13. For the purpose of proceeding under this Act, every offence against it shall be deemed to have been committed, and every cause of complaint under this Act shall be deemed to have arisen, either in the place where the same actually was committed or arose, or in any place in which the person charged or complained against happens to be.

14. Every person who refuses to admit any inspector acting under this Act, or under regulations or orders made in conformity with this Act, to any common, field, stable or other premises within his district where such inspector has reasonable ground to believe that any horse affected with disease, or other matter or thing exposed to such infection, is to be found, shall for every such offence incur a penalty not exceeding \$50.

15. Every person who obstructs or impedes an inspector or other officer acting in execution of the provisions of this Act, or of any order of, or regulation made by the Lieutenant-Governor in Council, or the Minister of Agriculture thereunder, and every person who aids and assists him therein, shall for each offence incur a penalty not exceeding \$100, and the inspector or other officer may apprehend the offender and take him forthwith before a justice of the peace to be dealt with according to the law; but no person so apprehended shall be detained in custody, without the order of a justice, longer than twenty-four hours.

16. Any person who exposes for sale or sells any horse which he has reasonable grounds for suspecting is affected with disease or which has been pronounced by any veterinary inspector as diseased and unfit for breeding purposes, shall be liable to a penalty of not less than \$100 nor more than \$500 for the first offence and to the same fine and also imprisonment for a period of not less than two months for any second or subsequent offence.

17. Any person violating any of the provisions contained in this Act, respecting which no express penalty is provided herein, shall be guilty of an offence under this Act, and shall on conviction forfeit and pay a sum not exceeding \$100 for each offence.

54 VICTORIA, CHAPTER 53.

An Act to Encourage the Breeding of Trotting
Horses.

[Assented to 4th May, 1891.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. No person shall enter or cause to be entered for competition for any purse, prize, premium, stake, or sweepstake, offered or given by any agricultural or other society, or association where the contest is to be decided by speed, any horse, colt or filly, under a false or assumed name or pedigree, or in a class different to which such horse, colt or filly, properly belongs by the rules of the society or association in which such contest is to take place.

2. The name of a horse, colt or filly, for the purpose of entry for such competition in any contest of speed shall not be changed, after having once been entered in any such contest, except as provided by the code of rules of the society or association under which the contest is conducted.

3. The class to which a horse, colt or filly, properly belongs, for the purpose of entry in any such contest of speed shall be determined by the public performance of such horse, colt or filly in some former, if any, contest or trial of speed, as provided by the rules of the society or association, under which the proposed contest is to be conducted.

4. Any person violating any of the provisions contained in this Act, shall be guilty of an offence thereunder and

shall, on conviction before any justice of the peace, under a prosecution to be commenced within two years from the commission of the offence, forfeit and pay a sum not less than \$50 nor more than \$200 for each offence, together with costs, and in case of non-payment shall be liable to imprisonment for a term not exceeding six months.

NOTE.—Prof. A. Smith, F.R.V.C.S., Principal of the Ontario Veterinary College, Toronto, has kindly consented to review the foregoing Acts relating to the veterinary profession, for a subsequent issue of the JOURNAL.

MISCELLANEOUS.

NOTE—(*Continued from page 103.*)

Practical knowledge, added to a fairly well-balanced or educated mind, is a much superior recommendation in a candidate for any official position than a property qualification, however large, without the brain power. In order to obtain such practical experience, it is essential that a man should occupy the position to which he has been elected or appointed for at least two or three years, when his competency may fairly be criticised. Under the Municipal Act members of councils are obliged to seek re-election from year to year, and frequently a municipality, through some local prejudice or popular notion, loses the services of some of its comparatively untried men, who have given evidence during a limited term of service, that they would become superior representatives in local council, or in the advisement of legislative matters.

It may be contended, that an extended term might induce corrupt practices, but the same objection would apply to members of the Legislative Assembly or House of Commons. The Municipal Act provides such good and sufficient safeguards against wrong-doing in councils, or among subordinate officials, that malfeasance or other misconduct can be readily detected and punished and the right of retaining office cancelled and determined.

Under the Public Schools Act, the system of electing trustees for a longer term than one year, has been adopted; and while it has, without doubt, given satisfaction, an election of all the trustees for an extended term, would meet with still greater approval.

There appears to be no valid reason, why municipal councillors should not be elected for a longer term, when more efficient management of public affairs might reasonably be expected, and a considerable saving in time and election expenses would be effected.

(*To be continued.*)

ORATION BY THE HON. T. D'ARCY MCGEE,
ON THE
UNION OF THE PROVINCES.

Delivered at Cookshire, County of Compton, Dec. 22nd, 1864.

At the start I cannot but congratulate the people of all the Provinces on the fortunate conjunction of circumstances which makes this the best possible time for a searching examination and a thorough overhauling of our political system. When I was in the Eastern Provinces last summer—when the Conferences were still a thing to come—I appealed on behalf of the project to the press and the public there, that it should not be prejudged, and I must say I think a very great degree of forbearance and good feeling was manifested in this respect. But I should be sorry, speaking for myself, now that the stage of intelligent discussion has been reached, now that we have got something before us to discuss, that such a vast scheme should pass, if that were possible, *sub silentio*. So far from deprecating discussion now, I should welcome it, for there could not be, there never can be, a more propitious time for such a discussion than the present. (Cheers.) Under the mild sway of a Sovereign, whose reign is coincident with responsible government in these colonies—a Sovereign whose personal virtues have rendered monarchical principles respectable even to those who prefer abstractedly the republican system—with peace and prosperity at present within our own borders—we are called on to consider what further constitutional safeguards we need to carry us on for the future in the same path of peaceable progression.

And never, surely, gentlemen, did the wide field of American public life present so busy and so instructive a

prospect to the thoughtful observer as in this same good year of grace, 1864. Overlooking all minor details, what do we find—the one prevailing and all but universal characteristic of American politics in those days? Is it not that “Union,” is at this moment throughout the entire new world the *mot d’ordre* of States and statesmen? If we look to the far South, we perceive a Congress of Central American States endeavoring to recover their lost unity; if we draw down to Mexico, we perceive her new Emperor endeavoring to establish his throne upon the basis of union; if we come farther north, we find eleven States battling for a new Union, and twenty-five on the other side battling to restore the old Union. (Cheers.) The New World has evidently had new lights, and all its states and statesmen have at last discovered that liberty without unity is like rain in the desert, or rain upon granite—it produces nothing, it sustains nothing, it profiteth nothing. (Cheers.) From the bitter experience of the past, the Confederate States have seen the wisdom, among other things, of giving their ministers seats in Congress, and extending the tenure of executive office fifty per cent. beyond the old United States period; from bitter experience, also, the most enlightened, and what we may consider the most patriotic among the Mexicans, desiring to establish the inviolability of their executive as the foundation of all stable government, have not hesitated to import, not “a little British Prince,” but an Austrian Archduke, a descendant of their ancient kings, as a tonic to their shattered constitution. Now, gentlemen, all this American experience, Northern, Southern and Central, is as accessible to us as to the electors of Mr. LINCOLN or Mr. DAVIS, or the subjects of Emperor MAXIMILLIAN: it lies before us, an open volume, and invites us to well read, mark and digest its contents. (Cheers.) It was with a view to contribute my mite at the present stage of the discussion, that I accepted Mr. POPE’s kind invitation, and am now here to offer you as clear a view as I can put into words, of the process of reasoning and observation by which those who composed the late

Conference arrived at the decisions at which they have arrived, in relation to the constitution and powers of the General and Local Governments in the future Confederation. (Hear, hear.) You have probably all read in the newspapers what purported to be the text—and it was very near the text—of the conclusions arrived at. You have no doubt all read Mr. BROWN's explanations at Toronto, and Mr. GALT's further explanations at Sherbrooke; you have probably also seen two other expressions of opinion, on the general question, in the journals of the day, one from the Honorable Mr. DORION, who is opposed to all union, except some sort of Federation of the Canadas; another from the Honorable Mr. HILLYARD CAMERON, who would much prefer a legislative to a federative union. I don't say that if it could be had by common consent, I would not be prepared to agree with Mr. CAMERON; but a legislative union under our circumstances, was simply out of the question. We might as well ask for the moon, and keep asking until we could get it. (Laughter.) It was a question between some form of federative union or no union at all; and I am not at all prepared to say with Mr. DORION, and never was, that the greater union is not the most desirable, if conditions can be settled satisfactorily to all parties. (Cheers.) It seems to me—and in saying so I intend no shadow of disrespect to the honorable member for Hochelaga—that the man who can seriously maintain that union is not strength, that five or six comparatively small communities, owning a common allegiance, existing side by side on the same continent, in the presence of much larger communities owning another allegiance, would not be stronger and safer united than separate, that such a one puts himself out of the pale of all rational argument.

I will take as an instance of the irrationality of such an argument—the particular question, the great test question remaining between Canada and England: the question of defence. (Hear, hear.) The future General Government has reserved to itself, saving the sovereignty of England, the control of our militia and military expenditure. Every

one can see that a war with England and the United States would be largely a naval war, and such a naval war as the ocean has never before seen—(hear, hear)—a war that would interest and stir the heart of England even beyond the pitch that made her staid merchants astonish LLOYD'S in 1813, with "three times three cheers," when they heard that the "Shannon" had fought and captured, and carried the "Chesapeake" a prize into Halifax harbour. (Cheers.) Suppose, then, in the event of an invasion of our soil, either in Upper Canada or Lower Canada—suppose that a flotilla was needed on the St. Lawrence, or on Lake Ontario; that England could spare us the gunboats, but not the skilled seamen; would it be no advantage to Canada to have the 50,000 Atlantic sailors of the Lower Provinces to call upon for their contingent to such a service? No doubt the empire could call on them now, but unless it restored the press-gang it could not make them come. But if by our union we gave that valuable class of men the feeling of common country; if by the intercourse and commerce which must follow on our union, that feeling grew to the strength of identity, we would have enough help of that description—drawn from what my colleague, Honorable Mr. CARTIER calls the maritime element—for the asking. (Cheers.) The Imperial power, having conceded to all the North American colonies responsible government, can only secure their co-operation, even in military measures, through those several separate governments. (Hear, hear.) Every one can see at a glance how much the Imperial power, and we ourselves, would gain in any emergency—if there were but two governments instead of six to be consulted—how much in promptitude, in decision, in time, in unanimity, and in effectiveness. I need not enlarge, I am sure, on so self-evident a proposition as this; the man that will not see it, will not, that is all I need add on that score. (Laughter) It has, indeed, been asserted by the sceptics in our work that all our theories of a closer commercial intercourse are chimerical; and yet, oddly enough, these are the same people who

think a commercial union would "secure all the benefits" of this chimerical prospect. (Laughter.) Well, I will not meet assertion by assertion, but I will answer a conjecture by a fact. At the very time the member for Hochelaga was issuing his rather inconsistent declaration against a political union as among other reasons, wholly unprofitable in a commercial point of view—and in favor of a commercial union as all that was to be desired in itself,—at that moment, the first steamship, laden with breadstuffs, direct from Montreal to Newfoundland, was dropping down the St. Lawrence, as a result of the partial and brief intercourse, brought about between the two communities, through our Conference at Quebec! That is a fact not very important in itself, perhaps, but very indicative of the possible usefulness of Union in a commercial point of view! (Cheers.) I may mention another fact: while we were lying in Charlottetown harbor last September, our attention was called to the arrival of a fine ocean-going steamship—one of a regular line "between Boston and Prince Edward Island. The Boston people find the trade of that rich little island worth cultivating, and they do it; they know where there is produce and where there is a market, and they establish a line of steamers to run there; yet I am sure they sell nothing to the islanders which we, at third the distance, could not just as well supply them with from Quebec or Montreal. (Cheers) I repeat, however, I will not argue so plain a point as that with provinces like ours, union is strength, is reputation, is credit, is security. I will just give one other illustration on this last head, and then I will drop the topic where it is: the security for peace which a large political organization has over a small one, lies not only in its greater interests and disposable force, but in this other consideration, that the aggressor must risk or lose the benefit of much larger transactions, in attacking a larger than in assailing a smaller, state. If, for example, in our system of defence—in addition to all the Imperial Government could do for us,—if we could, by our joint representative action, be sure

to shut up the River St. John upon the people of Maine—to exclude from the gulf the fishermen of Massachusetts—to withhold from the hearths and furnaces of New England the coal of Cape Breton—no man can question but that we would wield several additional means of defence, not now at the command of Canada. And so with the Lower Provinces; if their statesmen could wield our forces and our resources in addition to their own, does any sane man pretend that would not be an immense gain to them? (Hear, hear.) I may be told again the Imperial Government can do all this for us, if they will; I repeat that the Imperial Government alone can neither do any of these things so promptly, so fully, nor with so little trespass on our responsible governments, as a united legislature could, through an united public force, with the aid of a Federal treasury. I really, gentlemen, ought to beg your pardon—and I do so—for dwelling so long on the truism that union is, in our case, strength; but as the first proposition to which we all agreed at the first Conference, I thought I would give some explanation why we had unanimously arrived at that result. (Cheers.)

Another objector opposes our project because Colonial Union is inconsistent with Imperial connexion. Well, to that we might answer that we are quite willing to leave it to the statesmen of the empire themselves to decide that point. If England does not find it so, I think we may safely assume it is not so. And, in point of fact, the Imperial Government several years ago decided the question when they passed the New Zealand Constitutional Act, establishing six or seven local governments, under one general government, in that colony. (Cheers.) Still another objector contends that the complement of Federalism is Republicanism, because most of the States with which we are familiar as Federal States, are also Republics. But this objection is by no means unanswerable. It is true Switzerland is a Republic in the sense of having no hereditary head, but the United Netherlands, when a Confederacy, were not a Republic in that sense; it is true the United States

and Mexico, and the Argentine Federations were all republican in basis and theory; but it is also true that the German Confederation is, and has always been, predominantly monarchical. There might be half as many varieties of federal governments as there are states or provinces in the world; there may be aristocratic federations—like the Venetian,—or monarchical, like the German—or democratic, like the United States; the only definition which really covers the whole species of governments of this description is, the political union of states of dissimilar size and resources, to secure external protection and internal tranquility. (Cheers.) These are the two main objects of all confederacies of states, on whatever principles governed, locally or unitedly; federalism is a political co-partnership, which may be, and has been formed by Monarchists, Aristocrats, and Democrats, Pagans and Christians, under the most various circumstances, and in all periods of human history. (Cheers.) There may be almost as many varieties of confederation as of companies, in private and social life; we say, with propriety too, the company at the hotel, or the company who own the hotel; but the organization of each is widely different. Our Federation will be British; it will be of the fourth class of Lord COKE's division, *de mutui auxilli*—for mutual aid. The only element in it not British is the sectional equality provided for in the Upper House, a principle which is known to be alike applicable to the democratic confederation next us, and the monarchical confederation of Germany. (Hear, hear.)

One more objection which comes from an opposite quarter to the last, is that our plan is too stringently conservative. Well, gentlemen, I can but say to that—if it be so—that it is a good fault, which we may safely leave to the popular elements of our state of society to correct in time. It was remarked long ago by Lord BOLINGBROKE, and a greater than BOLINGBROKE has called it “a profound remark”—that it is easier to graft anything of a republic on a monarchy, than anything of monarchy on a republic. It is always easy in our society to extend democratic influence

and democratic authority; but it is not always possible, it is very seldom possible, ever to get anything back that is once yielded up to democracy. (Hear, hear.) If, therefore, our plan should seem at first sight somewhat too conservative—I repeat my own opinion, that it is a good fault, and the remedy may safely be left to time. So much for what lawyers call the “general issue.”

You will probably like me to define, gentlemen, that particular adaptation of the federal system, which has lately found such high favor in the eyes of our leading colonial politicians. Well, this definition has been, I think, pretty accurately given in the published text,—or what professes to be the text,—of the results arrived at at Quebec. Don't be alarmed; I am not going to read you the whole seventy and odd propositions. (Laughter.) It is, perhaps, sufficient for my purpose to give you, both by contrast and comparison, a broad, general view of what is, and what is not included in this constitutional charter. In the first place, I may say, gentlemen, to take the most familiar comparison, that we proceeded in almost an inverse ratio to the course taken in the United States, at the formation of their constitution. We began by dutifully acknowledging the sovereignty of the Crown, as they did by boldly declaring their total separation from their foreign Sovereign. Unlike our neighbors we have had no questions of sovereignty to raise. (Hear, hear.) We have been saved from all embarrassment on the subject of sovereignty, by simply recognizing it as it already exists, in the Queen of Great Britain and Ireland. There, for us, the sovereign power of peace and war, life and death, receiving and sending ambassadors, still resides, so long as Her Majesty and her descendants retain the allegiance of the people of these Provinces. (Cheers.) No doubt some inconvenience may arise from the habitual personal absence of the Sovereign; but even this difficulty—now that the Atlantic is an eight day ferry, is not insuperable. Next, we made the general, the supreme

Government and the local derivative ; while the Americans did just the reverse. (Cheers.)

As to the merits and consequences of this fundamental difference, I shall only say this, that merely to differ from another, and a sometime-established system, is, of course, no merit in itself ; but yet, if we are to be a distinct people from our republican neighbors, we can only be so and remain so, by the assertion of distinct principles of government,—a far better boundary than the River St. Lawrence, or the ASHBURTON line. (Cheers.) But suppose their fundamental politics to be right, would we then, for the sake of distinction, erect a falsehood at the North, to enable us to contend against a truth at the South ? Would we establish monarchy merely out of a spirit of antagonism ? No ! gentlemen, God forbid ! I of course hold, not only that our plan of Government is politic in itself, but also, that it is better than the American. I am prepared to maintain this at all times—against all comers : for if I had not myself faith in our work, I should scorn to inculcate its obligations on the public. (Cheers.) We build, as I said the other day at Montreal, on the old foundations—though the result of our deliberations is popularly called “ the new constitution.” I deny that the principles on which we proceeded, are novel or untried principles. These principles all exist, and for ages have existed in the British Constitution. Some of the contrivances and adaptations of principles are new—but the Royal authority, Ministerial responsibility, a nominative Upper House, the full and free representation of the Commons, and the independence of the Judges, are not inventions of our making. (Cheers.) We offer you no political patent medicine warranted to cure everything, nor do we pretend that our work is a perfect work ; but if we cannot make it perfect, we have at least left it capable of revision, by the concurrence of the parties to the present settlement, and the same supreme authority from which we seek the original sanction of our plan. (Cheers.) Still it is to be hoped that the necessity for any revision will seldom occur, for I am quite sure the people

of these provinces will never wish to have it said of their constitution, what the French bookseller of the last century said so wittily, on being asked for the French Constitution—that he did not deal in periodical publications. (Cheers and laughter.) We build on the old foundations, and I trust I may say, in the spirit of the ancient founders, as well. The matrix of the monarchical form of Government is humility, self-denial, obedience, and holy fear. I know these are not nineteenth century virtues—(laughter)—neither are they plants indigenous to the soil of the New World. Because it is a new world, as yet undisciplined, pride and self-assertion, and pretension, are more common, than the great family of humble virtues, whose names I have named. Pure democracy is very like pride—it is the “good-as-you” feeling carried into politics. (Laughter.) It asserts an unreal equality between youth and age, subject and magistrate, the weak and the strong, the vicious and the virtuous. But the same virtues which feed and nourish filial affection, and conjugal peace in private life, are essential to uphold civil authority; and these are the virtues on which the monarchical form of Government alone can be maintained.

There was a time when such a doctrine as this, which I am now inculcating here, in Compton, could hardly get a patient hearing in any part of North America; but that time is fortunately past away: it is possible in our days, even for republican writers to admit the merits of the monarchical system, without being hooted into silence, as the elder ADAMS was when he published in Philadelphia, towards the end of the last century, his eloquent *Discourses on Davila*. His grandson and editor, the present able Minister at the Court of St. James, tells us how the printer was intimidated from proceeding with the publication, and that it was the great cause of his ancestor's life-long unpopularity; and for what? Because he maintained, with BURKE, WASHINGTON, BOSSUET, and SHAKESPEARE, the divine origin of society, as against the theory of its human origin, upheld by JEFFERSON, PAINE, ROUSSEAU, and JOHN LOCKE.

JOHN ADAMS could be President of the United States, but he could not get a printer to publish a general treatise on government which admitted the merits of monarchy—which contended that there was “a natural aristocracy at Boston as well as at Madrid”—and the intolerant outcry then raised against him for the *Discourses of Davila* pursued him to the grave. (Hear.) Another American, of even higher mental mark than President ADAMS—perhaps the very first intellect of all the authors of the American system—was on the same ground equally suspected, and equally abused; ALEXANDER HAMILTON, in his original plan of the American Constitution, offended in the same way as ADAMS by advocating “a solid and coercive union” with “complete sovereignty in Congress”—and we all know how, down almost to yesterday, his memory was branded as that of an enemy of the country he did so much to bring into existence. No wonder political science has been at a stand-still for fifty years on this continent, when no man, however high his position, dared raise a negative to the prevailing democratic theories, without permission of the clamorous majority for the time being. (Cheers.) At last—and almost simultaneously the negative has been raised at the extremes of North America—Mexico and Canada—and we, at least here, we have no fear that our printers will be bullied into silence like the printer of President ADAMS. (Cheers.) We have not conceived our system in a spirit of antagonism to our next neighbors; we will still have enough in common with them constitutionally to obviate any very zealous propagandism on either part; but we will also have enough left of our ancestral system to distinguish permanently our people from their people—our institutions from their institutions—and our history (when we shall have a history) from their history. (Cheers.)

I have referred, Mr. Chairman and gentlemen, to the assertion of somewhat similar principles to our own now being made in Mexico. It would be strange if Canada should reach, by deliberation and forethought, the same results which Mexico has grasped at out of the miserable

depths of her long anarchy. (Cheers.) We are not yet informed whether the new Emperor designs to consolidate his provinces, or to leave them their local organizations; but this I know, that with all the immense natural advantages of Mexico, I should, for my part, rather take my chance for the permanent establishment of a free monarchy in the North than in Mexico. (Cheers.) We have already solved for ourselves one great problem—the legal relation of Church and State—which is still before the rulers of Mexico. If we have but half the population, we have three times the number of men of pure European race that Mexico has; and while I own that I wish every success to the Mexican Empire, under the auspices of France, I have, I confess, still stronger hopes for the successful establishment of the free kingdom of Canada, under the auspices of Great Britain. (Cheers.)

“For fiery, fierce and fickle is the South;
But loving, dark and tender is the North.”

—(Cheers.)

We have also solved—so far as the late Conferences could do so, for these provinces—the relation of the Crown to the people,—the sphere of the prerogative, and the sphere of the suffrage. We have preserved every British principle now in use among us, and we have recovered one or two that were well nigh lost; we have been especially careful not to trench on the prerogative of the Crown, as to the powers, rank, or income of its future representative on this continent; as to the dignity of the office, or the style and title of the future kingdom or viceroyalty, or by whatever other name it may be Her Majesty's pleasure to designate hereafter her dominions on this continent. (Cheers.) Next to the United States, we have the most extended suffrage in the New World; some think quite too far extended; but in our state of society, I do not see how that is to be avoided, in the selection at least, of the tax-imposing House of Parliament. We have, besides, restored to the Crown one of its essential attributes when, as the fountain of honor, we leave to the Sovereign the confirmation of the

second, the smaller and more Conservative Chamber ; and we preserve for the Crown its other great attribute,—as the fountain of justice, by retaining its right to appoint the Judges,—of course upon the advice of the Constitutional Councillors of the Queen in this country, who are in turn responsible to Parliament and the people for their advice and appointments. (Cheers.) We have provided also, in our new arrangements, that the tenure of all offices, shall be good behavior, in contradistinction to the “spoils principle” of our next neighbors. In all these respects we have built on the old foundations, in the spirit of the old wisdom—and we have faith, therefore, that our work will stand. (Loud cheers.) .

Naturally, gentlemen, we cannot expect that our course will be all plain sailing. We shall have our difficulties, as all states have had ; and this brings me to refer to the powers remaining in the possession of the local legislatures. The difference of language between the majority of Lower Canada, and the majority of the whole union is a difficulty ; but it is a difficulty which almost every other nation has had and has solved : in Belgium they have at least two languages, in Switzerland they have three chief languages—German, French, and Italian ; the Federal form of Government, the compromise between great states and small, seems peculiarly adapted to conciliate difficulties of this description, and to keep politically together men of different origins and languages. (Hear, hear.) I confess, I have less anxiety on this score than I have on another—the proper protection of the minority in origin and religion in Upper and Lower Canada respectively. (Hear, hear.) On this point there is no doubt a good deal of natural anxiety felt in the Townships, as there is among my own constituents in Montreal, and I have no doubt you would like me to enlarge upon it as the point most immediately interesting to yourselves.

I am, as you are, interested in the due protection of the rights of the minority, not only as an English-speaking

member in Lower Canada, but as interested naturally and reasonably for my co-religionists, who form the minority in Upper Canada. (Hear, hear.) I am persuaded as regards both minorities, that they can have abundant guarantees, sacred beyond the reach of sectarian or sectional domination—for all their rights, civil and religious. (Hear, hear and cheers.) If we had failed to secure every possible constitutional guarantee for our minorities, east and west, I am sure the gentleman who may be considered your special representative at the Conference—(Hon. Mr. GALT)—and I am equally sure, that I myself, could have been no party, to the conclusions of the late Conference. (Loud cheers.) But we both believed—and all our Canadian colleagues went with us in this belief—that in securing the power of disallowance, under circumstances which might warrant it to the General Government, in giving the appointment of Judges and Local Governors to the General Government, and in expressly providing in the Constitution for the educational rights of the minority, we had taken every guarantee, legislative, judicial and educational, against the oppression of a sectional minority by the sectional majority. (Cheers.) You will have for your guarantee the Queen's name,—which I think the case of Ottawa has shown is not without power in Canada; you will have the subordination of the local to the general authority, provided in the constitutional charter itself, and you will have, besides, the great material guarantee, that in the General Government you will be two-thirds of the whole told by language, and a clear majority counted by creed; and if with these odds you cannot protect your own interests, it will be the first time you ever failed to do so. (Cheers.) The Protestant minority in Lower Canada and the Catholic minority in Upper Canada may depend upon it the General Government will never see them oppressed—even if there were any disposition to oppress them—which I hope there is not in Upper Canada; which I am pretty sure there is not in Lower Canada. (Cheers.) No General Government could stand for a single session under the new arrangements

without Catholic as well as Protestant support; in fact, one great good to be expected from the larger interest, with which that Government will have to deal will be, that local prejudices, and all other prejudices, will fall more and more into contempt, while our statesmen will rise more and more superior to such low and pitiful politics. (Loud cheers.) What would be the effect of any set of men, in any subdivision of the Union, attempting for example, the religious ascendancy of any race or creed? Why, the direct effect would be to condemn themselves and their principles to insignificance in the General Government. Neither you here, nor the Catholic minority in Upper Canada will owe your local rights and liberties to the forbearance or good will of the neighboring majority; neither of you will tolerate being tolerated; but all your special institutions, religious and educational, as well as all your general and common franchises and rights, will be secured under the broad seal of the empire, which the strong arm of the General Government will suffer no bigot to break, and no province to lay its finger on, should any one be foolish enough to attempt it. (Cheers.)

This is the frame of government we have to offer you, and to this system, when fully understood, I am certain you will give a cheerful and a hearty adherence. (Cheers.) We offer the good people of these colonies jointly a system of government which will secure to them ample means of preserving external and internal peace; we offer to them the common profits of a trade, which was represented in 1863, by imports and exports, to the gross value of 137,000,000 of dollars, and by a sea-going and lake tonnage of 12,000,000 of tons! We offer to each other special advantages in detail. The Maritime Provinces give us a right of way and free outports for five months out of every year; we give them what they need, direct connexion with the great producing regions of the North-west all the year round. This connexion, if they do not get through Canada, they must ultimately get through the United States; and one reason why I, in season, and perhaps, out of season,

have continued an advocate for an Intercolonial Railway was, that the first and closest and most lasting connection of those Lower Provinces, with the continental trade system, might be established by, and through, and in union with, Canada. (Cheers.) I do not pretend that mere railway connexion will make trade between us and them, but I am quite sure we can have no considerable intercourse, no exchanges or accounts *pro* or *con* without such a connexion both for postal and travelling purposes. I rejoice, moreover, that we, men of insular origin, are about to recover one of our lost senses—the sense that comprehends the sea—(Cheers)—that we are not now about to subside into a character so foreign to all our antecedents, that of a mere inland people. The Union of the Provinces restores us to the ocean, takes us back to the Atlantic, and launches us once more on the modern Mediterranean, the true central sea of the western world. (Cheers.) But it is not for its material advantages, by which we may enrich each other, nor its joint political action, by which we may protect each other, that the Union is only to be valued; it is because it will give, as it only can give, a distinct historical existence to British America. If it should be fortunately safely established and wisely upheld, mankind will find here, standing side by side, on this half-cleared continent, the British and American forms of free government; here we shall have the means of comparison and contrast in the greatest affairs; here we shall have principles tested to their last results, and maxims inspected and systems gauged, and schools of thought, as well as rules of state, reformed and revised, founded and refounded. (Cheers.) All that wholesome stimulus of variety which was wanting to the intellect of Rome under the first emperors, will be abundantly supplied out of our own circumstances and those of our neighbours, so that no CICERO need ever, by personal considerations, enter into indefensible inconsistencies, and no TACITUS be forced to disguise his virtuous indignation at public corruption, under the thin veil of an outlandish allegory. (Cheers.) I may be sanguine for the future of

this country,—but if it be an error of judgment to expect great things of young countries, as of young people who are richly endowed by nature, and generously nurtured, then it is an error I never hope to amend. (Cheers.) And here let me say, that it is for the young men of all the provinces we who labor to bring about the Confederation are especially working; it is to give them a country wide enough and diversified enough to content them all, that we labor; it is to erect a standard worthy to engage their affections and ambition; it is to frame a system which shall blend the best principles with the best manners, which shall infuse the spirit of honor into the pursuit of politics, that we have striven—and who can be more interested for our success than the young men of the Provinces, who are to carry on the country into another century? (Cheers.)

We in our time, hope to do our duty; not only in “lengthening the cords and strengthening the stakes” of our constitutional system, with a view to that future, but in guarding jealousy in the perilous present, the honour and integrity of this province. I may say to you here, on the Eastern frontier, that the Government of the day are fully informed of all the machinations that have been set on foot, within and without our borders, to drive, or attempt, or trick Canada, out of that straightforward neutrality commanded by the Queen’s Proclamation four years ago. So far, we have been enabled to maintain that neutrality in the letter, as well as in the spirit, and I trust we may be equally successful in doing so, so long as it may be required. (Cheers) I am well convinced there is no Canadian who would wish his Government to make any base compliance—to overdo or overstrain any legal obligation—in order to buy for us the inestimable boon of peace; but I am equally convinced, and you will agree with me I feel confident, that all that can be done by way of prevention, however onerous or costly it may be to us a province, ought to be done to maintain friendly relations with our neighbors, so far as they will enable us to do so. The rest depends on them,—on the fairness of their statesmen

and their military authorities ; but come what may in the future, at all events we must see that Canada does its duty, and its whole duty, cheerfully, fully, and fearlessly. (Cheers)

Mr. Chairman and gentlemen, I beg your forgiveness for the great length to which these remarks have detained you. But our general plan having already found its way to the public, I was anxious to show our countrymen, here and at home, in a plain, popular way, the processes of reasoning and the guiding principles by which we arrived at the results at which we have arrived. I should blush for myself, and grieve for my colleagues, if we were any of us capable of picking up our principles in a panic, without inquiry or reflection, or examination. (Cheers.) I need hardly assure you, gentlemen, that nothing was done or said at Quebec or Charlottetown without full deliberation, and very hard work. It would be invidious to name names in connection with what was regarded by all engaged as a confidential discussion ; but while I cheerfully recognize in our countrymen of the Lower Provinces the noble qualities they exhibited throughout the whole of these transactions, I must say, I was proud of Canada's part in them also. (Cheers.) I was proud of the self-control, the ability, the acquirements, and the disinterested unanimity of our colleagues, from Upper as well as from Lower Canada. (Cheers.) And, now, gentlemen, that the architects have completed their plan, it is for you to say shall the building be put up ? It is for you and for your representatives in Parliament,—for my friend Mr. Pope and the other Township members—for the people of the Maritime Provinces and their representatives to say, whether this great work is to be carried, with all due diligence, to its completion. If the design should seem to you as wise and fit as it seems to us, then fling all misgivings far behind you and go ahead ! Let no local prejudice impede, let no personal ambition obstruct the great work. Why ! the very Aborigines of the land might have instructed the sceptics among ourselves that union was strength. What was it gave at

one time the balance of power on this soil to "the Six Nations,"—so that England, France and Holland all sought the alliance of the red-skinned statesmen of Onondago? What was it made the names of BRANT, and PONTIAC, and TECUMSETH so formidable in their day? Because they too had conceived the idea—an immense stride for the savage intellect to make—that union was strength. (Cheers.) Let the personalities and partizanship of our times stand abashed in the presence of those forest-born Federalists, who rose superior to all mere tribal prejudices in endeavoring to save a whole people. (Loud cheers.) And now, my friends of the County of Compton, once more receive my grateful thanks; have no fears for the rights of the minority, but be watchful as you ought to be, and as I am sure your worthy member (who is always at his post when your interests are at stake) will be. (Cheers.) The Parliament of Canada is, as you are aware, called by His Excellency for despatch of business at Quebec, on the 19th of January; it is an early call; and I am sure you all feel it will be an important session. I am, I do assure you, persuaded in my inmost mind, that these are the days of destiny for British America; that our opportunity to determine our own future, under the favor of Divine Providence, is upon us; that there is a tide in the affairs of nations, as well as of men, and that we are now at the flood of that tide. (Loud cheers.) Whether the men who have this great duty in charge may be found equal to the task, remains to be proved by their votes; but for my part, I am hopeful for the early and mutually advantageous union of all the provinces; for the early and firm establishment of our monarchical Confederation on this continent. (Loud cheers—amid which the hon. gentleman resumed his seat.)

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THE MUNICIPAL ACT.

(R. S. O. 1887, cap. 84.)

(CONTINUED.)

434. In every city there is hereby constituted a board of commissioners of police, and in every town having a Police Magistrate the council may constitute a like board, and such board shall consist of the mayor, the Judge of the County Court of the county in which the city or town is situate, and the Police Magistrate; and in case the office of County Judge or that of Police Magistrate is vacant, the council of the city shall, and the council of the town may, appoint a person resident therein to be a member of the board, or two persons so resident to be members thereof, as the case may require, during such vacancy; but the council of such town may at any time, by by-law, dissolve

C.M.J.—15

and put an end to the board, and thereafter the council shall have and exercise all powers and duties previously had or exercised by the board.

(2) The council of any city with a population of 100,000 or over, may by by-law provide for the payment of the Police Commissioners or any of them. 46 V. c. 18, s. 435. 53 V. c. 50, s. 14. (2).

435.—(1) The commissioners shall have power to summon and examine witnesses on oath on all matters connected with the administration of their duties, and they shall have the same power to enforce the attendance of such witnesses, and to compel them to give evidence as is vested in any Court of law in civil cases. A notice to attend before the board shall be sufficient, if signed by the chairman of the board, or any one of the commissioners.

(2) No party or witness shall be compelled to answer any question by his answer to which he might render himself liable to a criminal prosecution.

(3) A majority of the board shall constitute a quorum, and the acts of a majority shall be considered acts of the board. 50 V. c. 8, Sched.

(4) All meetings of the board of police commissioners in cities shall be open to the press and the public, unless otherwise decided by the board. 46 V. c. 18, s. 436 (2).

436.—(1) The board of commissioners of police shall, in cities, license and regulate second-hand stores and junk-stores, and shall also, in cities, regulate and license the owners of livery stables, and of horses, cabs, carriages, carts, trucks, sleighs, omnibuses and other vehicles regularly used for hire within the said city whether such owners are resident or non-resident therein, and shall establish the rates of fare to be taken by the owners or drivers of such vehicles, for the conveyance of goods or passengers either wholly within the limits of the city, or from any point within the city to any other point not more than three miles beyond said limits, and may provide for enforcing payment of such rates, and for such purposes shall pass by-laws and enforce the same in the manner, and to the extent in which any by-law to be passed under the authority of this Act may be enforced.

(2) The council of a city in which there is no board of commissioners of police, shall have and may exercise by by-law, all the powers conferred upon the board of commissioners by this section.

(3) The board of commissioners of police shall also regulate and control children engaged as :

- (a) Express or despatch messengers ;
- (b) Vendors of newspapers and small wares ;
- (c) Bootblacks.

(4) The board of commissioners of police and the council of any city in which there is no board of commissioners of police may pass by-laws defining areas or districts and localities in the city within the limits of which no livery stable, boarding or other stables shall hereafter be established in which horses are to be kept for hire or express purposes.

(5) The board of commissioners of police in any city, and the council of any town, may regulate or prohibit the playing of bands and of musical instruments on any street, highway, park or public place in the city, but this shall not apply to any military band attached to any regular corps of the militia of Canada when on duty under the command of its regular officers. 49 V. c. 37, s. 9. 51 V. c. 28, s. 17. (a) (b) (c). 52 V. c. 36, s. 16 (4). 54 V. c. 42, s. 13 (5). 55 V. c. 43, s. 25.

NOTE.—Section 436 of the said Act is amended by inserting in the fifth line thereof after the word “vehicles” the words “regularly used for hire within the said city, whether such owners are resident or non-resident therein,” in lieu of the words “used for hire.” The amendment of 55 V. c. 43, s. 25, would exempt the owners of horses, cabs, carriages, carts, trucks, sleighs, omnibuses and other vehicles used *casually* for hire, from paying a license fee.

437. All by-laws of the board of commissioners of police shall be sufficiently authenticated by being signed by the chairman of the board which passes the same ; and a copy of such by-law, written or printed, and certified to be a true

copy by any member of the board, shall be deemed authentic, and be received in evidence in any Court of Justice without proof of such signature, unless it is specially pleaded or alleged that the signature to such original by-law has been forged. 46 V. c. 18, s. 438.

438. In all cases where the board of commissioners of police are authorized to make by-laws, either under this or any other Act or law, they shall have power in and by such by-laws, to attach penalties for the infraction thereof, to be recovered and enforced by summary proceedings before the Police Magistrate of the city for which the same are passed, or, in his absence, before any Justice of the Peace having jurisdiction therein, in the manner and to the extent that by-laws of city councils may be enforced under the authority of this Act; and the convictions in such proceedings may be in the form hereinbefore set forth. 46 V. c. 18, s. 439.

439. The council of every city shall appoint a high bailiff, but may provide, by by-law, that the offices of high bailiff and chief constable shall be held by the same person. 46 V. c. 18, s. 440.

440. The police force in cities and towns having a board of commissioners of police, shall consist of a chief constable and as many constables and other officers and assistants as the council from time to time deem necessary, but, in cities, not less in number than the board reports to be absolutely required; but this section shall not affect or apply to a city in which, by the special Act of incorporation thereof, provision is made for the appointment, control and management of the police by the council. 46. V. c. 18, s. 441.

441. The members of the police force shall be appointed by and hold their offices at the pleasure of the board, and shall take and subscribe the following oath:

I, A, B., do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Police Constable for the
of without favour or affection, malice or ill-will;
and that I will, to the best of my power, cause the peace to be kept and preserved, and will prevent all offences against the persons and properties of Her Majesty's subjects; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law.

46 V. c. 18, s. 442.

442. The board shall, from time to time, make such regulations as they may deem expedient for the government of the force, and for preventing neglect or abuse, and for rendering the force efficient in the discharge of all its duties. 46 V. c. 18, s. 443.

443. The constables shall obey all lawful directions, and be subject to the government of the board, and shall be charged with the special duties of preserving the peace, preventing robberies and other felonies and misdemeanors, and apprehending offenders; and shall have generally all the powers and privileges, and be liable to all the duties and responsibilities, which belong, by law, to constables duly appointed. 46 V. c. 18, s. 444.

444. The council shall appropriate and pay such remuneration for and to the respective members of the force, as may be required by the board of commissioners of police, and shall provide and pay for all such offices, watch-houses, watch-boxes, arms, accoutrements, clothing and other necessaries as the board may from time to time deem requisite and require for the payment, accommodation and use of the force; but this section shall not affect or apply to any city in which by the special Act of incorporation thereof provision is made for the appointment, control and management of the police by the council. 46 V. c. 18, s. 445.

445. The council of every town not having a board of commissioners of police shall, and the council of every incorporated village may appoint one chief constable and one or more constables for the municipality; and the persons so appointed shall hold office during the pleasure of the council. 46 V. c. 18, s. 446.

NOTE.—It is the duty of a Town Council not having a board of commissioners to appoint one chief constable and one or more constables for the municipality; a Village Council *may* do so.

446. Where in a town, there was on the 24th day of March, 1874, a board of commissioners of police, constituted under the Acts then in force respecting Municipal Institutions in this Province, the council of the said town may, by by-law, dissolve and put an end to the board, and there-

after the council shall have and exercise all powers and duties which might, under said Acts, have been had or exercised by the board; and unless and until so dissolved and put an end to, the board shall have and exercise all the powers and duties which, but for this section, would have been exercised or had by the board. 46 V. c. 18, s. 447.

447. The council of every county and township may appoint one or more salaried constables for the municipality, to hold office during the pleasure of the council; every such constable, and any city, town or village constable shall have the same powers and privileges and be subject to the same liability and to the performance of the same duties and shall be subject also to suspension by the Judge of the County Court in the same manner, and may act within the same limits, as a constable appointed by the Court of General Sessions. 47 V. c. 32, s. 23 (1).

448. Where any salaried constable is appointed for any municipality, whether by the municipal council or by police commissioners, the council may agree that such constable shall keep, for his own use, his fees of office, or the council may require that the said fees shall be paid to the municipal treasurer for the use of the municipality. 47 V. c. 32, s. 23 (2).

449. In case any person complains to the chief of police, or to a constable in a town or city, of a breach of the peace having been committed, and in case such officer has reason to believe that a breach of the peace has been committed, though not in his presence, and that there is good reason to apprehend that the arrest of the persons charged with committing the same is necessary to prevent his escape or to prevent a renewal of a breach of the peace, or to prevent immediate violence to person or property, then, if the person complaining gives satisfactory security to the officer that he will without delay appear and prosecute the charge before the Police Magistrate or before the mayor or sitting Justice, such officer may, without warrant, arrest the person charged, in order to his being conveyed as soon as conveniently may be before the Magistrate, mayor or Justice, to be dealt with according to law. 46 V. c. 18, s. 448.

450. Until the organization of a board of police, every mayor or Police Magistrate may, within his jurisdiction,

suspend from office, for any period in his discretion, the chief constable, or any constable of the town or city, and may if he chooses to, appoint some other person to the office during such period: and in case he considers the suspended officer deserving of dismissal, he shall, immediately after suspending him, report the case to the council, and the council may dismiss such officer, or may direct him to be restored to his office after the period of his suspension has expired; and the city council shall have the like powers as to the high bailiff of the city. 46 V. c. 18, s. 449.

451. During the suspension of such officer he shall not be capable of acting in his office, except by the written permission of the mayor or Police Magistrate who suspended him, nor during such suspension shall he be entitled to any salary or remuneration. 46 V. c. 18, s. 450.

COURT HOUSES, GAOLS AND PLACES OF IMPRISONMENT.

452. Every county council may pass by-laws for erecting, improving and repairing a court house, gaol, house of correction, and house of industry, upon land being the property of the municipality, and shall preserve and keep the same in repair, and provide the food, fuel and other supplies required for the same. 46 V. c. 18, s. 451.

453. Every county council may, when a court house is required to be erected within the limits of a city, pass by-laws for entering upon, taking, using, and acquiring such land as may be necessary or convenient for the purposes of such court house. 46 V. c. 18, s. 452.

454. The gaol, court house and house of correction of the county in which a town or city, not separated for all purposes from a county, is situate, shall also be the gaol, court house, and house of correction of the town or city, and shall, in the case of such city, continue to be so until the council of the city otherwise directs; and the sheriff, gaoler and keeper of the gaol and house of correction shall receive and safely keep, until duly discharged, all persons committed thereto by any competent authority of the town or city. 46 V. c. 18, s. 453.

455. The council of any city may erect, preserve, improve and provide for the proper keeping of a court house, gaol, house of correction and house of industry, upon lands being the property of the municipality, and may pass by-laws for all or any of such purposes. 46 V. c. 18, s. 454.

456. The council of every county may establish and maintain a lock-up house, or lock-up houses, within the county, and may establish and provide for the salary or fees to be paid to the constable to be placed in charge of every such lock-up house, and may direct the payment of the salary out of the funds of the county. 46 V. c. 18, s. 455.

457. Every lock-up house shall be placed in the charge of a constable specially appointed for that purpose by the magistrates of the county at a General Sessions of the Peace therefor. 46 V. c. 18, s. 456.

458. The council of every city, town, township, and incorporated village may, by by-law, establish, maintain and regulate lock-up houses for the detention and imprisonment of persons sentenced to imprisonment for not more than ten days under any by-law of the council; and of persons detained for examination on a charge of having committed any offence; and of persons detained for transmission to any common gaol or house of correction, either for trial or in the execution of any sentence; and such councils shall have all the powers and authorities conferred on county councils in relation to lock-up houses. 46 V. c. 18, s. 457.

459. Two or more municipalities may unite to establish and maintain a lock-up house. 46 V. c. 18, s. 458.

460.—(1) The council of every county, city or town separated from a county may acquire an estate in landed property for an industrial farm, and may establish a house of industry and a house of refuge, and provide, by by-law, for the erection and repair thereof, and for the appointment, payment and duties of inspectors, keepers matrons and other servants for the superintendence, care and management of such houses of industry or refuge, and in like manner make rules and regulations (not repugnant to law) for the government of the same.

(2) Two or more united counties, or two or more contiguous counties, or a city and one or more counties, or a town and one or more counties, may agree to have only one house of industry or refuge for such united or contiguous counties, or city and counties, or town and counties, and maintain and keep up the same in the manner herein provided.

(3) The council may provide, by by-law, for requiring such persons as may be sent to such industrial farm or other place, to work on the said farm, or at any work or service for the said municipality, at such times, and for such hours, and at such trade or labour as they may appear to be adapted for respectively, and for buying and selling material therefor, and for applying the earnings, or parts thereof, of such persons for their maintenance or the maintenance of the wife or child or wife and children (if any) of such persons, or for the general maintenance of the farm or other places as aforesaid, or for aiding such persons to reach their friends (if any) or any place to which it may be deemed advisable to send them.

(4) Any two or more local municipalities shall have the same powers and rights as to acquiring, holding and maintaining an industrial farm, or acquiring, erecting and maintaining a house of industry or refuge as any county or city or united or contiguous counties or city or town and county now have under and by virtue of this Act or otherwise, and may arrange with any other local municipality or municipalities for the admission upon such terms and conditions as may be agreed upon between them, of such other local municipality or municipalities to a joint ownership or occupancy or right of user by said other municipality or municipalities in or of said farm, house of industry or refuge. Any purchase or grant to or acquisition by two or more local municipalities of any such farm, or the erection of any such house of industry or refuge, or any agreement or by-law therefor or any agreement or by-law for the admission of any other local municipality to such joint ownership or right of user or occupation made, entered into or passed before the passing of this Act shall be as valid and binding for all purposes as though made, entered into or passed after the passing hereof.

(5) All the provisions of this Act relating to industrial farms, houses of industry or houses of refuge respectively,

shall apply to any such local municipalities and to any industrial farm, house of industry or house of refuge acquired, erected, occupied or maintained thereby as fully as to any other municipality or municipalities in the preceding sub-section mentioned, or to any industrial farm, house of industry or house of refuge acquired, owned, erected, occupied or maintained by them or any of them.

(6) The council may provide by by-law that each local municipality within the county shall be required to pay for the maintenance and support of each person sent by or from such local municipality to the House of Refuge, and received therein, a sum not exceeding at the rate of one dollar and fifty cents per week. 46 V. c. 18, s. 459. 51 V. c. 28, s. 18 (4) (5); 52 V. c. 86, s. 17 (6).

461. The inspector of a house of industry or refuge, appointed as aforesaid, shall keep an account of the charges of erecting, keeping, upholding and maintaining the house of industry or refuge, and of all materials found and furnished therefor, together with the names of the persons received into the house, as well as those discharged therefrom, and also of the earnings; and such account shall be rendered to the county council every year, or oftener when required by a by-law of the council; and a copy thereof shall be presented to the Legislature. 46 V. c. 18, s. 460.

462. The council of every city and town may respectively pass by-laws:

1. For erecting and establishing within the city or town, or on such industrial farm, or on any ground held by the corporation for public exhibitions, a workhouse or house of correction, and for regulating the government thereof.

2. For committing and sending, with or without hard labour, to the workhouse or house of correction, or to the industrial farm, house of industry, house of refuge, or house for the poor, aged, and infirm, or lock-up, or to any work or service for the municipality as aforesaid, by the Mayor, Police Magistrate, or Justice of the Peace, while having jurisdiction in the municipality, such disorderly persons, drunkards, vagrants, indigent persons, and such description of persons as are set forth or referred to in section 369 of chapter 48 of the Acts passed in the 36th year of Her Majesty's reign, and as may by the council be

deemed, and by by-law be declared, expedient; and such farm, house of correction, house of industry, house of refuge, or house for the poor, aged, or infirm, lock-up house, or ground held as aforesaid, shall, for the purposes in this sub-section mentioned, be deemed to be within the municipality and the jurisdiction thereof.

3. For erecting and establishing within a city having a population of 50,000 and upwards an institution for the reclamation and cure of habitual drunkards.

4. For committing and sending with or without hard labour to the institution for the reclamation and cure of habitual drunkards by the Mayor, Police Magistrate or Justice of the Peace, while having jurisdiction in the municipality, such drunkards as are set forth or referred to in section 369 of chapter 48 of the Acts passed in the thirty-sixth year of Her Majesty's reign, and as may by the council be deemed and by by-law be declared expedient.

5. In the event of any city establishing an institution for the reclamation and cure of habitual drunkards under the provisions of this Act, sections 97 to 108, both inclusive, of chapter 246 of the Revised Statutes of Ontario, 1887, shall be applicable thereto as if such institution had been named in said Act. 46 V. c. 18, s. 461; 51 V. c. 28, s. 19 (3), (4), (5).

463. Until separated houses of correction are erected in the several counties in Ontario, the common goal in each county respectively shall be a house of correction; and every idle and disorderly person, or rogue and vagabond, and incorrigible rogue, and any other person by law subject to be committed to a house of correction, shall, unless otherwise provided by law be committed to the said common gaols, respectively. 46 V. c. 18, s. 462.

464. (1) The sheriff shall have the care of the county gaol, gaol offices and yard, and gaoler's apartments, and the appointment of the keepers thereof, whose salaries shall be fixed by the county council, subject to the revision or requirement of the Inspector of Prisons and Public Charities.

(2) Every appointment, or dismissal, of a gaoler shall be subject to the approval of the Lieutenant-Governor. 46 V. c. 18, s. 463.

465. The salary of the gaoler shall be in lieu of all fees, perquisites or impositions of any sort or kind whatever; and no gaoler or officer belonging to the gaol shall demand or receive any fee perquisite or other payment from any prisoner confined within the gaol or prison. 46 V. c. 18, s. 464.

466. The county council shall have the care of the court house and of all offices and rooms and grounds connected therewith, whether the same forms a separate building or is connected with the gaol, and shall have the appointment of the keepers thereof, whose duty it shall be to attend to the proper lighting, heating and cleaning thereof; and shall from time to time provide all necessary and proper accommodation, fuel, light, stationery and furniture for the Courts of Justice other than the Division Courts, and for the library of the law association of the county (such last mentioned accommodation to be provided in the court house), and shall provide proper offices together with fuel, light and furniture, for all officers connected with such Courts other than (1) officers of the Maritime Court of Ontario (not being in the County of York) and (2) official assignees. 46 V. c. 18, s. 465; 48 V. c. 36, ss. 11, 13; 55 V. c. 43, s. 26.

467. In any city, not being a separate county for all purposes, but having a gaol or courthouse separate from the county gaol or courthouse, the care of such city gaol or courthouse shall be regulated by the by-laws of the city council. 46 V. c. 18, s. 467.

468. In case of a separation of a union of counties, all rules and regulations, and all matters and things in any statute for the regulation of, or relating to courthouses or gaols, in force at the time of the separation, shall extend to the courthouse and gaol of the junior county. 46 V. c. 18, s. 468.

469. Cities and towns separated from counties shall, as parts of their respective counties for judicial purposes, bear and pay their just share or proportion of all charges and expenses from time to time as the same may be incurred in erecting, building and repairing and maintaining the court house and gaol of their respective counties, and of the proper lighting, cleansing and heating thereof, and of providing all necessary and proper accommodation, fuel,

light, stationery and furniture for the gaol and Courts of Justice, other than the Division Courts, and for the library of the law association of the county, and of providing proper offices, together with fuel, light, and furniture for officers connected with such Courts, where the same are required to be provided by the county council; and all other charges relating to criminal justice, payable by the county in the first instance, except constables' fees and disbursements, and charges connected with coroners' inquests, and such other charges as the counties are entitled to be repaid by the Province; and in case the council of the city or town separate as aforesaid, and the council of the county in which such city or town is situate for judicial purposes cannot, by agreement from time to time, settle and determine the amount to be so payable by such city or town respectively, then the same shall be determined by arbitration, according to the provisions of this Act.

(2) It shall be lawful for the council of any county and the council of any city or town, situate in such county, but separated therefrom for municipal purposes, to enter into any agreement,

(a) For the purchase or acquisition of land within the county town for the purpose of erecting thereon buildings for the use of such county and city or town, for municipal and judicial purposes;

(b) And for the erection, maintenance, use, management and control of such buildings;

(c) And for fixing or ascertaining the amount which each municipality shall pay or contribute for the purposes aforesaid;

(d) And for the subsequent disposition of such land and buildings, and of any insurance or other moneys that may be received in respect thereof;

And to acquire such land as may be necessary for the erection thereon of such buildings;

And to pass all such by-laws as may from time to time be necessary for the purchasing of such land, and the carrying out of any such agreement. 46 V. c. 18, s. 469; 48 V. c. 39, s. 12; 52 V. c. 36, s. 18; 52 V. c. 36, s. 18, s.s (2) (a) (b) (c) (d) etc.; 55 V. c. 48, s. 27.

470. The council shall not be liable to pay for any furniture which they are required to provide under the provisions of sections 466 and 469 of this Act, unless the same has been ordered by the council or by some person duly authorized by them so to do. 46 V. c. 18, s. 470.

471. The corporation of any county and city or town separated from the county, are hereby declared to have, respectively, insurable interests in the court house and gaol of the county and the furniture thereof, in the proportions in which they shall, for the time being, be liable to contribute towards the erection, building, repairing, and maintaining the same, and towards providing necessary accommodation and furniture for the said gaol and Courts of justice, and for the officers connected with such Courts, and any such corporation may insure its said interest accordingly. 46 V. c. 18, s. 471.

472. In all cases in which any city is required to contribute to the cost of erecting or building a court house or gaol, not commenced before the 5th day of March, 1880, the council of such city shall not be bound to pay for any part of the expenditure thereafter incurred in respect thereof, unless the same has been concurred in by the council of the city, or, in case of dispute, has been determined by arbitration, according to the provisions of this Act, and the council of the city shall have a voice in the selection of the site of the court house and gaol; and in case the council of the county and city shall fail to agree upon the selection of such site, the same shall be settled and determined by arbitration, according to the provisions of this Act. 46 V. c. 18, s. 472.

473.—(1) While a city or town uses the court house, gaol or house of correction of the county, the city or town shall pay to the county such compensation therefor, and for the care and maintenance of prisoners, as may be mutually agreed upon, or settled by arbitration under this Act. 46 V. c. 18, s. 473.

(2) In case of arbitration under the preceding provisions of this section, in determining the compensation to be paid for the care and maintenance of prisoners confined in the gaol, the arbitrators shall, so far as they deem the same just and reasonable, take into consideration the original cost

of the site and erection of the goal buildings, and of repairs and insurance, so far as the same may have been borne or sustained by one or other of the municipalities, and shall also take into consideration the cost of maintaining and supporting the prisoners, as well as the salaries of all officers and servants connected therewith ; but the provisions of this sub-section shall apply only to the determining of the compensation to be paid for the care and maintenance of any such prisoners subsequent to the first day of January, 1886. 49 V. c. 37, s. 10.

474. In case, after the lapse of five years from such compensation having been so agreed upon or awarded, or having been settled by statute, and whether before or after the passing of this Act, it appears reasonable to the Lieutenant-Governor in Council, upon the application of either party, that the amount of the compensation should be reconsidered, he may, by an Order in Council, direct that the then existing arrangement shall cease after a time named in the order, and after such time the councils shall settle anew, by agreement or by arbitration under this Act, the amount to be paid from the time so named in the order. 46 V. c. 18, s. 474.

475. Nothing herein contained shall affect any lock-up house heretofore lawfully established, but the same shall continue to be a lock-up house as if established under this Act. 46 V. c. 18, s. 475.

476. The expense of conveying any prisoner to, and of keeping him in a lock-up house, shall be defrayed in the same manner as the expense of conveying him to and keeping him in the common gaol of the county.

(1) In case a county town has not a lock-up approved by the Inspector of Prisons, and the county gaol is used for the purposes of a lock-up, the municipal corporation of the county town shall pay yearly to the county treasurer for the use of the county a reasonable amount for the use of the goal as a lock-up, and for the expenses incurred thereby and in connection therewith, and in the event of any dispute arising as to the amount which should be paid to the county as aforesaid, the same shall be settled by arbitration as provided for under *The Municipal Act*.

(2) This section shall not apply to cities or towns separated from counties for which provision is made by section 478 of *The Municipal Act*. 46 V. c. 18, s. 477 ; 52 V. c. 36, s. 44.

INVESTIGATION OF CHARGES OF MISCONDUCT IN RELATION TO MUNICIPAL MATTERS.

Investigation by County Judge. Sec. 477.

477.—(1) In case the council of any municipality at any time passes a resolution requesting the Judge of the County Court of the County in which the municipality is situate to investigate any matter to be mentioned in the resolution, and relating to a supposed malfeasance, breach of trust or other misconduct on the part of any member of the council or officer of the corporation, or of any person having a contract therewith, in relation to the duties or obligations of the member, officer, or other person, to the municipality, or in case the council of any municipality sees fit to cause inquiry to be made into or concerning any matter connected with the good government of the municipality, or the conduct of any part of the public business thereof, and if the council at any time passes a resolution requesting the Judge to make the inquiry, the Judge shall enquire into the same, and shall for that purpose have all the powers which may be conferred upon commissioners under *The Act respecting Inquiries concerning Public Matters*, and the Judge shall, with all convenient speed, report to the council the result of the inquiry and the evidence taken thereon. 46 V. c. 18, s. 480.

(2) The Judge of the County Court, holding such investigation, shall be entitled to receive, and shall be paid by the municipality requesting him to hold the investigation, the same fees as he would be entitled to receive if the matter had been referred to him as a referee under the provisions of *The Judicature Act*. 49 V. c. 87, s. 11.

NOTE.—See also ss. 383, 384.

WHEN MAYOR MAY CALL OUT POSSE COMITATUS.

478. The mayor of any city or town may call out the *posse comitatus* to enforce the law within his municipality should exigencies require it, but only under the same circumstances in which the sheriff of a county may now by law do so. 46 V. c. 18, s. 481.

POWERS OF MUNICIPAL COUNCILS.

479. The council of every county, township, city, town, and incorporated village may pass by-law :

1. For obtaining such real and personal property as may be required for the use of the corporation, and for erecting, improving and maintaining a hall, and any other houses and buildings required by and being upon the land of the corporation, and for disposing of such property when no longer required ;

2. For appointing such—

Pound-keepers,	Road Surveyors,
Fence-viewers,	Road Commissioners,
Overseers of Highways,	Valuators,
Game Inspectors,	

and other officers as are necessary in the affairs of the corporation, for carrying into effect the provisions of any Act of the Legislature or by-law of the corporation, or for the removal of such officers ; but nothing in this Act shall prevent any member of a corporation from acting as commissioner, superintendent or overseer, over any road or work undertaken and carried on, in part or in whole, at the expense of the municipality ; and it shall be lawful for the municipality to pay to such member of the corporation acting as such commissioner, superintendent or overseer ; 49 V. c. 45, s. 15 ; 50 V. c. 29, s. 18. *See* Cap. 210, s. 5.

3. For regulating the remuneration, fees, charges and duties of such officers, and the securities to be given for the performance of such duties ; *See* sec. 278.

4. For regulating or preventing the incumbering, injuring, or fouling, by animals, vehicles, vessels or other means, of any public wharf, dock, slip, drain, shore, bay, harbour, river or water ;

5. For directing the removal of door steps, porches, railings, or other erections, or obstructions projecting into or
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over any wharf, dock, slip, drain, sewer, bay, harbour, river or water, or the banks or shores thereof, at the expense of the proprietor or occupant of the property connected with which such projections are found ;

6. For making, opening, preserving, altering, improving and maintaining public wharves, docks, slips, shores, bays, harbours, rivers, or waters and the banks thereof ;

7. For regulating harbours ; for preventing the filling up or encumbering thereof ; for erecting and maintaining the necessary beacons, and for erecting and renting wharves, piers and docks therein, and also floating elevators, derricks, cranes and other machinery suitable for loading, discharging or repairing vessels ; for regulating the vessels, crafts and rafts arriving in any harbour ; and for imposing and collecting such reasonable harbour dues thereon as may serve to keep the harbour in good order, and to pay a harbour master ;

8. For granting aid by way of bonus, for or towards the construction of harbours, wharves, docks, slips, and necessary beacons on any river, lake, or navigable water passing in, through, or forming any part of the boundary of a county whether such bonus be given by such county or by a city, town, township, or incorporated village situated therein and to pay such bonus either in one sum, or in annual or other periodical payments, with or without interest, and subject to such terms, conditions and restrictions as the municipality may deem expedient ;

(a) No such by-law shall be passed until the assent of the electors has been obtained in conformity with the provisions of this Act in respect of by-laws for creating debts ;

(b) Any municipality granting such aid may take and receive of and from such person or body corporate, receiving any such aid, security for the compliance with the terms and conditions upon which such aid is given.

9. For granting money or land in aid of the Agricultural and Arts Association of Ontario, or of any duly organized Agricultural or Horticultural Society in Ontario, or of any incorporated Mechanics' Institute or free library, established under *The Free Libraries Act*, within the municipality,

or within any adjoining municipality, or for the purpose of aiding any regularly organized rifle association ; or for adding to the sum paid, during the period of annual or other authorized drill, or when on active service, to any enlisted member or members of any corps of Active Militia organized within such municipality ; or for the purpose of military outfit or equipment of the members of such corps ; or for aiding in the establishment or maintenance of a band of music.

The provisions of the Acts passed during the present session repealing certain of the bonus provisions of *The Municipal Act* empowering municipalities to aid manufacturers and manufacturing establishments shall not extend to any case where at the time of the passing of this Act the by-law for granting the bonus had passed its first reading since the first day of April, 1892, or where a by-law has heretofore passed its second reading and been advertised ; but such by-law and the proceedings thereon shall be governed by the law as it existed immediately before the time of the repeal of the said provisions taking effect. 55 V. c. 44, s. 1.

11. For taking stock in or lending money, or granting bonuses to any incorporated company, in respect of any road, bridge or harbour, within or near the municipality, under and subject to the respective statutes in that behalf, or for granting aid by way of bonus to any incorporated road or bridge company ;

- (a) No such by-law granting such aid by way of bonus shall be passed until the assent of the electors has been obtained in conformity with the provisions of this Act in respect of by-laws for creating debts.

12. For aiding in maintaining any indigent person belonging to or found in the municipality, at any work-house, hospital or institution for the insane, deaf and dumb, blind or other public institution of a like character ; or for granting aid to any charitable institution or out-of-door relief to the resident poor ; See s. 504 (11).

13. For taking a census of the inhabitants, or of the resident male freeholders and householders in the municipality ;

14. For regulating the driving and riding of horses and other cattle on the highways and public bridges, and for preventing racing, immoderate or dangerous driving or riding thereon ;

15. For opening, making, preserving, improving, repairing, widening, altering, diverting, stopping up and pulling down, drains, sewers or water-courses, within the jurisdiction of the council, and for entering upon, breaking up, taking or using any land in or adjacent to the municipality in any way necessary or convenient for the said purposes, and for entering upon, taking or using any land not adjacent to the municipality for the purpose of providing an outlet for any sewer, but subject always to the restrictions in this Act contained. 46 V. c. 18, s. 482 (10-15) ; 51 V. c. 28, s. 20.

16. For regulating the size and number of doors in churches, theatres, halls or other buildings used for places of worship, public meetings or places of amusement, and the street gates leading thereto, and the construction and also the size and number of doors, halls, stairs and other means of egress from all hospitals, schools, colleges and other buildings of a like nature, and also the structure of stairs and stair-railings in all such buildings ; and the strength of the walls, beams and joists and their supports ; and for compelling the production of the plans of all such buildings for inspection and for enforcing observance of such regulations.

16. (a) For regulating the size and strength of walls, beams, joists, rafters, roofs and their supports of all buildings to be erected or repaired within the municipality, and for compelling the production of the plans of all buildings for inspection, and for enforcing observance of such regulations. 50 V. c. 29, s. 20 ; 54 V. c. 42, s. 14, 16a 51 V. c. 28, s. 21—16a.

(See also sections 420-428.)

17. For inflicting reasonable fines and penalties not exceeding \$50 exclusive of costs,—

(a) Upon any person for the non-performance of his duties who has been elected or appointed to any office in the corporation, and who neglects or refuses to accept such office, unless good

cause is shewn therefor, or to take the declaration of office, and afterwards neglects the duties thereof; and

- (b) For breach of any of the by-laws of the corporation.

NOTE.—See ss. 177-181.

18 For collecting such penalties and costs by distress and sale of the goods and chattels of the offender;

19. For inflicting reasonable punishment, by imprisonment with or without hard labour, either in a lock-up house in some town or village in the township, or in the county gaol or house of correction, for any period not exceeding twenty-one days, for breach of any of the by-laws of the council, in case of non-payment of the fine inflicted for any such breach, and there being no distress found out of which such fine can be levied; except for breach of any by-law in cities, and of any by-law for the suppression of houses of ill-fame in any municipality, in which cases the imprisonment may be for any period not exceeding six months with or without hard labour in case of the non-payment of the costs and fines inflicted, and there being no sufficient distress as aforesaid. 46 V. c. 18, s. 482 (18-20).

20. For causing any tree, shrub or sapling, growing or planted on any public place, square, highway, street, lane alley or other communication under its control, to be removed, if and when such removal is deemed necessary for any purpose of public improvement; but any owner of adjoining property shall be entitled to ten days' notice of the intention of the council to remove such tree, shrub or sapling, and shall be entitled to be recompensed for his trouble in planting and protecting the same. No owner of adjoining property nor any pathmaster or other public officer, nor any other person, shall remove or cut down or injure such tree, shrub or sapling, on pretence of improving the public place, square, highway, street, road, lane, alley or other communication or otherwise, without the express permission of the municipal council having the control of the public place, square, highway, street, road, lane, alley or other communication; and any council may expend money in planting and preserving shade and ornamental trees upon any public place, square, highway, street, road, lane, alley or other communication within

the municipality, and may grant sums of money to any person or association of persons to be expended for the same purposes.

21. For seizing and forfeiting bread or other articles when of light weight or short measurement. 46. V. c. 18, s. 482 (24). *See also* secs. 489 (52); 508 (9).

22. For entering upon, taking and using and acquiring so much real property as may be required for the use of the corporation, for public parks, squares, boulevards and drives in the municipality and adjoining local municipalities, without the consent of the owners of such real property, making due compensation therefor to the parties entitled thereto, to be determined under the provisions of this Act, by Arbitration, where the parties do not agree.

23. In every case in which any municipality shall expropriate lands in an adjoining municipality, the municipality so expropriating such lands shall put the same in an efficient state to be used as, and open the same to the general public, for the purposes of such public parks, squares, boulevards, and drives within a reasonable time after such expropriation, and shall maintain and keep the same in an efficient state of repair; and shall provide and maintain such police protection for such public parks, squares and drives, as shall be necessary for the safety of the public frequenting and using the same and the residents whose lands adjoin the lands so expropriated. 50 V. c. 29, s. 21.

480.—(1) Every municipal council shall have power to contract for a supply of water within the municipality for fire purposes and other public uses, from hydrants or otherwise as may be deemed advisable and for the renting of such hydrants for any number of years not, in the first instance, exceeding ten, and for renewing such contract from time to time for such period, not exceeding ten years, as the council may desire, and every council shall also have power to purchase hydrants necessary for any of the purposes or uses aforesaid, and also to erect the same; and to purchase or rent for a term of years or otherwise, fire apparatus of any kind, and fire appliances and appurtenances belonging thereto respectively.

Every municipal council shall in like manner have power to contract for a supply of gas or electric light for street lighting and other public uses for any number of years not in the first instance exceeding ten, and for renewing such contract from time to time for such period not exceeding ten years, as the council may desire. 46 V. c. 18, s. 483. 52 V. c. 86, s. 20.

(2) Subject to the provisions of this Act, or any special Act so far as the same may be applicable, the powers of a municipal corporation for lighting the municipality, or for constructing gas works, whether by this or by any special Act, shall include the powers conferred on gas companies by sections 54 and 55 of *The Act respecting Joint Stock Companies for supplying Cities, Towns, and Villages with Gas and Water*. 42 V. c. 28, s. 3.

(3) Where any municipal corporation has constructed any gas or water works for supplying the municipality with gas or water, and where there is a sufficient supply thereof, it shall be the duty of the corporation to supply with gas or water all buildings within the municipality situate upon land lying along the line of any supply pipe of the said corporation, upon the same being requested by the owner, occupant, or other person in charge of such building.

(4) The corporation before supplying gas or water to any building or as a condition to its continuing to supply the same, may require any consumer to give reasonable security for the payment of the proper charges of the company therefor or for carrying the gas or water into such building.

(5) Nothing in the preceding two sub-sections contained shall be construed in any way to affect the liability of any corporation in respect of damages on account of any failure of supply through mischance, accident or mismanagement, but the position of the corporation in respect thereto shall remain as if such two sub-sections had not been enacted. 47 V. c. 26, ss. 1, 3, 4.

481. The council of any municipality in which a flagrant crime is believed to have been committed, may offer and pay a reward for the discovery, apprehension, or conviction of the criminal, or of any person who is suspected to be the criminal. 46 V. c. 18, s. 484.

482. Whenever any municipal council has any authority to direct, by by-law or otherwise, that any matter or thing should be done by any person or corporation, such council may also, by the same or another by-law, direct that in default of its being done by the person, such matter or thing shall be done at the expense of the person in default, and may recover the expense thereof with costs by action or distress; and, in case of non-payment thereof, the same shall be recovered in like manner as municipal taxes. 46 V. c. 18, s. 485.

483. Every council shall make to the owners or occupiers of, or other persons interested in, real property entered upon, taken or used by the corporation in the exercise of any of its powers, or injuriously affected by the exercise of its powers, due compensation for any damages (including cost of fencing when required) necessarily resulting from the exercise of such powers, beyond any advantage which the claimant may derive from the contemplated work; and any claim for such compensation, if not mutually agreed upon, shall be determined by arbitration under this Act, and such claim shall be made within one year from the date when the alleged damages were sustained or became known to the claimant, or in case of a continuance of damage, then within one year from the time when the cause of action arose or became known to the claimant.

(2) This section shall not apply to real property taken or used by the corporation. 46 V. c. 18, s. 486. See sec. 385, *et seq.* 54 V. c. 42, s. 16.

484.—(1) In the case of real property which a council has authority under this Act to enter upon, take or use, without the owner's consent, corporations, tenants in tail or for life, guardians, committees, and trustees, shall, on behalf of themselves, their successors and heirs respectively, and on behalf of those they represent, whether infants, issue unborn, lunatics, idiots, married women or others, have power to act, as well in reference to any arbitration, notice and action under this Act, as in contracting for and conveying to the council any such real property, or in agreeing as to the amount of damages arising from the exercise by the council of any power in respect thereof.

(2) In case there is no such person who can so act in respect to such real property, or in case any person inter-

ested in respect to any such real property is absent from this Province, or is unknown, or in case his residence is unknown, or he himself cannot be found, the Judge of the County Court for the county in which such property is situate may, on the application of the council, appoint a person to act in respect to the same for all or any of the said purposes. 46 V. c. 18, s. 487.

485. In case any person acting as aforeaid has not the absolute estate in the property, the council shall pay to him the interest only at six per centum per annum on the amount to be paid in respect of such property, and shall retain the principal to be paid to the person entitled to it whenever he claims the same and executes a valid acquittance therefor, unless the High Court, or other Court having jurisdiction in such cases, in the meantime directs the council to pay the same to any person or into Court; and the council shall not be bound to see to the application of any interest so paid, or of any sum paid under the direction of such Court. 46 V. c. 18, s. 488.

486. All sums agreed upon, or awarded in respect of such real property, shall be subject to the limitations and charges to which the property was subject. 46 V. c. 18, s. 489.

487.—(1) Notwithstanding any of the provisions contained in this Act, in all cases where claims are made for compensation for damages by the owners or occupiers of or other persons interested in lands entered upon, taken or used by the corporation of any city, or alleged to have been injuriously affected by such corporation in the exercise of any of its powers, in the event of the corporation not being able to agree with the claimant or claimants on the amount of compensation to be made, and the amount claimed does not exceed \$1,000, the same shall be settled and determined by the award of the Judge of the county within which the city is situate, (sitting as sole arbitrator), or at the option of either party, by such other sole arbitrator as the said Judge on application made by either party to him, upon notice to the other party, may appoint for the purpose.

Provided that in cities having a population of 100,000 or over the limitation of the above provision to claims not exceeding \$1,000 shall not apply, and all claims of the character

aforesaid may, at the option of any party interested therein, be settled and determined by the award of a sole arbitrator to be appointed by any Judge of the Court of appeal for Ontario, upon the application of any party interested, and upon notice, as herein provided, to the other parties.

Provided that in such cities in lieu of appointing a sole arbitrator, the Judge may, in cases where the sole question involved is the value of the property taken, or to be taken, appoint one or more valuers or appraisers, who shall determine the amount of compensation to be made to the claimant or claimants upon view of the locality, and according to their own skill and knowledge without hearing evidence.

(2) Either party shall be entitled to at least seven days' notice exclusive of the day of the service of the notice, of the wish of the other party to have an arbitration, and seven days' notice, exclusive of the seven days above mentioned and of the day of the service of the notice, shall be given of any application to the Judge to appoint any sole arbitrator or valuator or appraiser as aforesaid.

(3) The fees to be paid to the arbitrator shall be the same as those payable to referees under the provisions of *The Act respecting Arbitrations and References*.

(The following sub-sections apply and relate to cities having a population of 100,000 or over.)

(4) The fees to be paid to the valuator or appraiser, or valuers or appraisers shall be determined by the Master in Chambers of the Supreme Court of Judicature for Ontario upon the application of any party interested.

(5) Subject to the provisions of section 488, the costs of any award made under this section, by an arbitrator or by the valuator or valuers, or appraiser or appraisers appointed as herein provided, shall be upon such scale and shall be borne and paid by such of the parties as the said Master in Chambers may direct by order (to be made on the application of either party.)

(6) The appointment of arbitrators, valuers or appraisers under this section, or under sections 391, 392, 393 and 394

of this Act, shall not be deemed to be an admission of any liability on the part of the corporation; and all defences and objections shall be open to either party as if an action had been brought.

(7) Any arbitrator appointed under this section, or under the sections hereinbefore mentioned, may and shall at the request of either party, in and by his said award specify separately, (1) the amount of compensation or damage to which the claimant would be entitled, if there was no set off on account of any advantage derived by the claimant from the work or improvement in question, and (2) the amount deducted from such compensation or damage on account of such advantage, and also whether any, and if any, how much of the said advantage was direct, special and peculiar to the property of the claimant. 49 V. c. 37, s. 41 (1-3); 52 V. c. 36, s. 21-22.

487a. The appointment of arbitrators, under sections 391, 392, 398 and 394 of this Act shall not be deemed to be an admission of any liability on the part of the corporation; and all defences and objections shall be open to either party as if an action had been brought. 55 V. c. 43, s. 30.

488. The council of any municipality in all cases where claims for compensation or damages are made against them which, under the provisions of this or any other Act, are declared to be the subject of arbitration in the event of the parties not being able to agree, may tender to any person making such claim, such amount as they may consider proper compensation for the damage sustained or lands taken, and in the event of the non-acceptance by the claimant or claimants of the amount so tendered, and the arbitration being proceeded with, and if an award is obtained for an amount not greater than the amount so tendered, the costs of the arbitration and award shall, unless otherwise directed by the arbitrator, be awarded to the corporation and set off against any amount which shall have been awarded against them.

488. (a) The compensation or damages which may be agreed upon or awarded for any land taken or injuriously affected by any municipal corporation in the exercise of its corporate powers shall stand in the stead of such lands, and any claim to, or encumbrance upon the said lands,

or to any portion thereof shall, as against the said corporation, be converted into a claim to the money so paid, or to a like proportion thereof.

488. (b) If in the opinion of the High Court of Justice or of any Judge thereof there is reason to fear any claims or encumbrances, or if any person to whom the compensation or damage or any part thereof is payable, refuses to execute the proper conveyance or guarantee, or cannot be found, or is unknown to the corporation, the corporation may pay such compensation into the office of the accountant of the Supreme Court of Judicature for Ontario with interest thereon at 6 per cent. per annum for six months, and may deliver to such accountant an authentic copy of the conveyance or of the award or agreement, as the case may be, and such award or agreement or conveyance shall thereafter be deemed to be the title of the corporation to the land therein mentioned, but this shall not apply to any proceedings heretofore had or taken.

488. (c) A notice in such form and for such time as any judge of the High Court of Justice may direct, shall be inserted in a newspaper, if there is one published in the municipality in which the lands are situated, or if there is no newspaper published in the municipality, then in the *Ontario Gazette*, and also in a newspaper published in the nearest municipality thereto in which any newspaper is published. Such notice shall state that the title of the corporation, under such agreement, award or conveyance, is under this Act, and shall call upon all persons entitled to the lands or to any part thereof so taken or injuriously affected, to file their claims to the said compensation money or any part thereof, and all such claims shall be received and adjudicated upon by the High Court of Justice or by any judge thereof, and the said proceedings shall forever bar all claims to the said lands or to any part thereof, including dower, as well as all mortgages or encumbrances upon the same, and the said court or judge shall make such order for distribution, payment or investment of the said compensation money and for securing the rights of all persons interested, as may be necessary.

488. (d) The costs of the proceedings, including proper allowances to witnesses, shall be paid by the corporation or by such other person as the said court or any judge thereof

may order ; and if the said order of distribution is obtained in less than three months from the payment into court of the said compensation moneys, the court or any judge thereof may direct any proportionate part of such interest to be returned to the said corporation.

488. (e) Such judgment shall forever bar all claims to the lands or any part thereof, including dower, as well as any mortgage or encumbrance upon the same, and the court or judge shall make such order for distribution, payment or investment of the said compensation money, and for the security of the rights of all persons interested therein as may be necessary. 49 V. c. 37, s. 42; 53 V. c. 50, s. 17 (488a), (488b), (488c), (488d), (488e).

489. The council of every township, city, town or incorporated village may pass by-laws—

1. For dividing the wards of such city or town, or for dividing such township or incorporated village into two or more convenient polling sub-divisions and for establishing polling places therein, and for repealing or varying the same from time to time ; and such polling sub-divisions shall be made or varied whenever the electors in any ward, township, village or polling sub-division exceed 200, and shall be made and varied in such a manner that the number of electors in any polling sub-division shall not exceed at any time 200.

(a) Where a municipality is divided into polling sub-divisions, the same polling sub-divisions shall be used both for the election of members of the Legislative Assembly and for the municipal elections ; and the polling sub-divisions for the elections to the Legislative Assembly and municipal elections shall hereafter be made the same in all cases, except that the municipal council of every city, town or incorporated village, may by by-law unite, for the purpose of municipal elections any two adjoining polling sub-divisions. 46 V. c. 18, s. 490 (1).

NOTE.—The privilege of uniting for the purpose of municipal elections any two adjoining polling sub-divisions should be extended to townships.

- (b) Where a polling place has been fixed by by-law for the holding of any election, or the taking of any vote in any township, city, town, or village, and it is afterwards found that the building named as such polling place cannot be obtained, or is unsuitable for the purpose, the clerk of the municipality shall have the power to choose in lieu thereof as a polling place the nearest available building suitable for the purpose, and shall post up and keep posted up a notice on the building fixed by the by-law, and in two other conspicuous places near by, directing the voters to the place chosen as aforesaid.

NOTE.—If on the day of the election, it is found that the place fixed by by-law cannot be obtained, the *deputy returning officer* should be empowered to choose “the nearest available building suitable for the purpose.”

- (c) An election shall not be irregular or void or voidable for the reason that a polling sub-division is not or has not been divided which contains more than 200 voters so long as it does not contain more than 300 voters. 50 V. c. 29, s. 22; 52 V. c. 86, s. 23; 54 V. c. 42, s. 17.

2. For disqualifying any elector from voting at municipal elections who has not paid all municipal taxes due by him on or before the 14th day of December next preceding the election. 46 V. c. 18, s. 490 (2). *See also section 251.*

NOTE.—See note to sec. 131, vol. 1; see also ss. 81, 82, 143 (1).

3. For constructing, building, purchasing, improving, extending, holding, maintaining, managing and conducting waterworks and all buildings, materials, machinery and appurtenances thereto belonging in the municipality and in the neighbourhood thereof, subject to the provisions contained in *The Municipal Waterworks Act*; 46 V. c. 18, s. 496 (2).

4. For compelling the use of water, supplied by the waterworks of the city, town, township or village, for drinking and domestic purposes, within certain areas to

be defined by by-law, and for prohibiting the use of spring or well water within such areas for such purposes. 49 V. c. 87, s. 88 (1); 50 V. c. 29, s. 84.

5. For authorizing the reduction of the annual sinking fund rate, or amount required to be collected under local improvement by-laws passed by the council prior to the Act passed in the 42nd year of the reign of Her Majesty, chaptered 31, and for making allowance for the interest accrued from the investment of the amounts of sinking fund heretofore collected under such by-laws; provided always that in settling the sum to be raised annually for the remaining years which any such by-law has to run for the payment of the debt, in lieu of the sinking fund rate, fixed by the original by-law, the rate of interest on future investments shall not be estimated at more than five per cent. per annum, to be capitalized yearly; provided also that no by-law reducing the sinking fund rates, fixed by any such local improvement by-law shall become valid or effectual until the same shall have been assented to by the Lieutenant-Governor in Council. 49 V. c. 87, s. 88 (2); 50 V. c. 29, s. 48.

6. For licensing, regulating and governing all persons who for hire or gain, directly or indirectly keep, or have in their possession, or on their premises, any billiard or bagatelle table, or who keep or have a billiard or bagatelle table in a house or place of public entertainment or resort, whether such billiard or bagatelle table is used or not, and for fixing the sum to be paid for a license so to have or keep such billiard or bagatelle table, and the time such license shall be in force;

7. For limiting the number of and regulating victualing houses, ordinaries, and houses where fruit, oysters, clams, or victuals are sold to be eaten therein, and all other places for reception, refreshment or entertainment of the public;

8. For licensing the same when no other provision exists therefor, and for fixing the rates of such licenses not exceeding \$20;

9. For licensing, regulating and governing transient traders, and other persons who occupy premises in the city or town, incorporated village, or township, for temporary

periods, and whose names have not been duly entered on the assessment roll in respect of income or personal property for the then current year; and who may offer goods or merchandise of any description for sale by auction, or in any other manner conducted by themselves or by a licensed auctioneer or otherwise; but no such by-law shall affect, apply to or restrict the sale of the stock of an insolvent estate which is being sold or disposed of within the county in which the insolvent carried on business therewith at the time of the issue of a writ of attachment or of the execution of an assignment;

(9a) Or for requiring all transient traders who occupy premises in the municipality, and are not entered upon the assessment roll in respect of income or personal property, and who may offer goods or merchandise of any description for sale by auction, or in any other manner, conducted by themselves or by a licensed auctioneer, or by their agent or otherwise, to pay before commencing to trade a sum, in cities and towns not to exceed \$100, and in other municipalities not to exceed \$50 by way of license, and for providing that the sum so paid as license shall be credited to the trader paying the same upon and on account of taxes for the unexpired portion of the then current year, as well as any subsequent taxes, should such trader remain in the municipality a sufficient time for taxes to become due and payable by him, and in any other event to be taken and used by the municipality as a portion of the license fund of such municipality: but no such by-law shall affect, apply to, or restrict the sale of the stock of an insolvent estate which is being sold or disposed of within the local municipality in which the insolvent carried on business therewith, at the time of the issue of a writ of attachment or of the execution of an assignment. 51 V. c. 28, s. 23; 53 V. c. 50, s. 19.

10. For obtaining such real property as may be required for the erection of public school houses thereon, and for other public school purposes, and for the disposal thereof when no longer required; and for providing for the establishment and support of public schools according to law;

NOTE.—See Public Schools Act, ss. 115-121; 109, 110.

11. For accepting or purchasing land for public cemeteries as well within as without the municipality, but not within any city, town, or incorporated village, except as

hereinafter provided, and for laying out, improving and managing the same; but no land shall be accepted or purchased for such purpose except by a by-law declaring in express terms that the land is appropriated for a public cemetery, and for no other purpose; and thereupon such land, although without the municipality, shall become part thereof, and shall cease to be a part of the municipality to which it formerly belonged; and such by-law shall not be repealed; and the trustees of any burying ground or cemetery or the cemetery company owning any burying ground or cemetery may agree for the sale or transfer thereof to the municipality which desires to acquire the same; and in cases where such grounds have not been used for burials, the municipality may dispose thereof, and acquire other ground instead thereof. 51 V. c. 28, s. 22.

(a) For selling or leasing portions of such land for the purpose of interment, in family vaults or otherwise, and for declaring in the conveyance the terms on which such portion shall be held. 46 V. c. 18, s. 490 (2-9).

(b) Provided, however, that the municipal council of an incorporated village may pass a by-law for accepting or purchasing land for a public cemetery within the territorial limits of the village upon the by-law being first approved of by the Local Board of health, and ratified by the Provincial Board of Health; and the by-law shall thereupon be as valid and effectual as if the land were situated without the municipality.

(c) All expenses incurred by the provincial Board of Health, in respect of and incidental to the by-law, and whether the by-law be ratified by the board or not, shall be paid by the village municipality to the secretary of the board. 50 V. c. 29, s. 28. See Caps. 175, 176.

12. For the acquiring and expropriation of lands to be used for enlarging any existing public cemetery or burying ground, but no expropriation of any land within the limits of a city shall be authorized, and as to any such enlargement in a village or town the consent of the Provincial Board of Health shall be first obtained.

- (a) In case the owner of the land required refuses to sell the same, or refuses to take the price the council of the municipality is willing to pay, then in either of such cases the matter in dispute shall be referred to arbitration, and shall be proceeded with under the provisions of this Act, respecting arbitrations, as to compensation for lands taken.
- (b) The arbitrators shall decide whether it is necessary in the public interests that the lands should be expropriated for the aforesaid purposes or any of them, and if so decided they shall award as to the price to be paid to the owner of said lands, but the costs shall be in the discretion of the arbitrators.
- (c) If the arbitrators award that the lands shall be taken for such cemetery or burying ground, one copy of the award shall be deposited with the registrar of the county or city, as the case may be, in which the lands are situate, and shall be a valid title to the said lands.
- (d) No lands used as an orchard, pleasure ground or garden, nor any lands within two hundred yards of any dwelling house, shall be expropriated without the consent of the owner or owners of such dwelling-house.
- (e) The award shall be in writing and the boundaries of the lands or premises taken shall be fully described therein.
- (f) All the provisions of sub-sections 11 and 13 of this section shall as far as applicable, apply to the lands acquired under this sub-section. 48 V. c. 38, ss. 1-5.

13. For preventing the violation of cemeteries, graves, tombs, tombstones, or vaults where the dead are interred :

NOTE.—By 53 V. c. 48, municipal councils may grant money out of the general funds of the municipality for fencing and keeping in repair certain burial grounds. See s. 496, s.s. 7.

14. For preventing cruelty to animals; and for preventing the destruction of birds; the by-laws for these purposes not being inconsistent with any statute in that behalf;

15. For restraining and regulating the running at large of dogs, and for imposing a tax on the owners, possessors or harbourers of dogs;

16. For killing dogs running at large contrary to the by-laws;

16a. For inspecting and regulating the construction and erection of hoists, scaffoldings and other constructions used in the erecting, repairing, altering or improving buildings, chimneys, or other structures; and for making all necessary regulations for the protection and safety of workmen and other persons employed thereon, and for appointing inspectors of scaffolding. 54 V. c. 42, s. 18.

17. For settling the height and description of lawful fences, and for regulating and settling the height, description and manner of maintaining, keeping up and laying down fences along highways or any part or parts thereof, and for making compensation for the increased expenses, if any, to persons required so to maintain, keep up or lay down such last-mentioned fences or any part thereof. *See sec. 511 (8).*

18. For regulating the height, extent and description of lawful division fences; and for determining how the cost thereof shall be apportioned; and for directing that any amount so apportioned shall be recovered in the same manner as penalties not otherwise provided for may be recovered under this Act; but until such by-laws are made, the Acts respecting Line Fences and Ditching Water-courses shall continue applicable to the municipality.

19. For providing proper and sufficient protection against injury to persons or animals by fences constructed wholly or in part of barbed wire or any other material.

And in towns and cities for wholly prohibiting the construction or erection of fences made wholly or in part of barbed wire or any other barbed material, along streets and public places. 53 V. c. 50, s. 18.

20. For requiring owners or occupiers of lands bordering upon any public highway, to take down, alter, or remove any fence or fences, subject to the provisions of *The Act respecting Snow Fences*. See sec. 511 (8).

21. For compelling the owners of lands through which any open drain or water course passes to erect and keep up water gates where fences cross such drain or water-course, and for preventing persons obstructing any drain or water-course.

22. For preventing the growth of Canada thistles and other weeds detrimental to husbandry, and compelling the destruction thereof; for the appointment of an inspector with power to enforce the provisions of such by-law; for regulating his duties, and determining the amount of remuneration, fees or charges he is to receive for the performance of such duties; See also Cap. 202.

23. For preventing persons from throwing any dirt, filth, carcasses of animals, or rubbish, on any street, road, lane or highway

24. For regulating the times during which stumps, wood, logs, trees, brush, straw, shaving, or refuse, may be set on fire or burned in the open air, and for prescribing precautions to be observed during such times, and for preventing such fires, being kindled at other times. 46 V. c. 18, s. 490 (10-21). See Cap. 213.

24a. For regulating the keeping and transporting of gunpowder and other combustible or dangerous materials; for regulating and providing for the support by fees, of magazines for storing gunpowder belonging to private parties; for compelling persons to store therein; for acquiring land, as well within as without the municipality, for the purpose of erecting powder magazines, and for selling and conveying such land when no longer required therefor. See Rev. Stat. c. 184, s. 496-(9). 55 V. c. 43, s. 82.

25. For preventing or regulating and licensing exhibitions of wax work, menageries, circus-riding, and other such like shows usually exhibited by showmen, and for regulating and licensing roller skating rinks and other places of like amusement; and for requiring

the payment of license fees for authorizing the same, not exceeding \$500 for every such license; and for imposing fines to an amount not exceeding the amount of the said license fee on such persons infringing such by-laws; and for levying the same by distress and sale of the goods and chattels of such showman or belonging to or used in such exhibition, whether owned by such showman or not, or for the imprisonment of such offenders for any term not exceeding one month. 55 V. c. 48, s. 38.

- (a) It shall not be lawful for the council of any municipal corporation, or the commissioners of police in any city, to grant licenses or license certificates to persons having exhibitions of any work or circus-riding, or other shows of a like character, or places of gambling, or to those engaged in traffic in fruits, goods, wares, or merchandise of whatever description, for gain on the days of the exhibition of the Agricultural Association of Ontario, or of any electoral district or township agricultural society, either on the grounds of such society, or within the distance of 300 yards from such grounds. 46 V. c. 18, s. 490 (22); 49 V. c. 87, s. 12; 50 V. c. 29, s. 24. 58 V. c. 50, s. 18.

26. For preventing or regulating and licensing exhibitions held or kept for hire or profit, bowling alleys and other places of amusement. 46 V. c. 18, s. 490 (32).

27. For allowing to any person who plants fruit trees, or trees, shrubs or saplings, suitable for affording shade on any highway within the municipality, in abatement of statute labour or out of the general fund, a sum of not less than twenty-five cents for every tree so planted. *See* Cap. 201.

28. For preventing the injuring or destroying of trees or shrubs planted or preserved for shade or ornament; and the defacing of private or other property by printed or other notices.

29. For preventing the pulling down or defacing of signboards, or of printed or written notices lawfully affixed.

30. For authorizing any corporate gas or water company to lay down pipes or conduits for the conveyance of water or gas under streets or public squares, subject to such regulations as the council sees fit.

31. For acquiring stock in, or lending money to, such company; and for guaranteeing the payment of money borrowed by, or of debentures issued for money so borrowed by the company; provided the by-law is consented to by the electors, as hereinbefore provided. In such case the head of any corporation holding stock in such company to the amount of \$10,000 shall be, *ex officio*, a director of the company in addition to the other directors thereof, and shall also be entitled to vote on such stock at any election of directors.

32. For preventing the sale or gift of intoxicating drink to a child, apprentice or servant, without the consent of a parent, master or legal protector.

33. For preventing the posting of indecent placards, writings or pictures, or the writing of indecent words, or the making of indecent pictures or drawings, on walls or fences in streets or public places.

34. For preventing vice, drunkenness, profane swearing, obscene, blasphemous or grossly insulting language, and other immorality and indecency.

35. For suppressing disorderly houses and houses of ill-fame.

36. For suppressing gambling houses, and for seizing and destroying faro-banks, *rouge et noir*, roulette tables, and other devices for gambling found therein.

37. For preventing horse racing.

38. For restraining and punishing vagrants, mendicants, and persons found drunk or disorderly in any street, highway or public place. And in cities and towns any such by-law may provide that the chief constable of the municipality or the inspector in charge of any police station to which any person is brought on the charge of being drunk, without being disorderly, may, in any case where it is so far as known to said officer a first or

second arrest for such offence, release such person without bringing him before a justice of the peace or police magistrate; and any person arrested for the said offence shall be a competent witness on his own behalf. 55 V. c. 48, s. 84.

39. For preventing indecent public exposure of the person and other indecent exhibitions.

40. For preventing or regulating the bathing or washing the person in any public water in or near the municipality; 46 V. c. 18, s. 490 (23-31, 33-37).

41. For preventing and abating public nuisances.

42. For establishing, protecting, regulating and cleansing public and private wells, reservoirs and other public and private conveniences for the supply of water, and for closing public and private wells; for preventing the fouling of the same and the wasting of water therein or therefrom; for procuring an analysis of such water, and providing for the payment of the expense thereof, and for making reasonable charges for the use of public water.

43. For compelling the owners, lessees and occupants of real property within any defined area to fill up or close any wells, water-closets, privies, privy-vaults, or cesspools, the continuance of which may, in the judgment of the council, be dangerous to health.

44. For preventing or regulating the erection or continuance of slaughter houses, gas works, tanneries, distilleries or other manufacturies or trades which may prove to be nuisances.

45. For preventing or regulating the keeping of cows, goats, pigs and other animals, and defining limits within which the same may be kept.

46. For regulating or preventing the ringing of bells, blowing of horns, shouting and other unusual noises, or noises calculated to disturb the inhabitants.

46a. For preventing or regulating the firing of guns or other firearms; and the firing or setting off of fireballs, squibs, crackers or fireworks, and for preventing charivaries and other like disturbances of the peace. 55 V. c. 48, s. 85.

47. For regulating the construction of cellars, sinks, cesspools, water-closets, earth closets, privies and privy vaults, and for compelling and regulating the manner of draining, cleaning, clearing, and disposing of the contents of the same.

48. For compelling or regulating the filling up, draining, cleaning, clearing, altering, relaying or repairing of any grounds, yards, vacant lots and private drains.

49. For making any other regulations for sewerage or drainage that may be deemed necessary for sanitary purposes.

50. For seizing and destroying all tainted and unwholesome meat, poultry, fish, or other articles of food. 47 V. c. 32, s. 13 (1-9, 12).

51. For preventing or regulating the buying and selling of articles or animals exposed for sale or marketed, subject to the restrictions contained in sections 497-502. 46 V. c. 18, s. 503 (4); 47 V. c. 32, s. 15 (1).

52. For preventing the use of deleterious materials in making bread; and for providing for the seizure and forfeiture of bread made contrary to the by-law. 47 V. c. 32, s. 15 (2); 46 V. c. 18, s. 503 (13 *part*). *See* sec. 479 (21).

53. For appointing inspectors, and for providing for the inspection of milk, meat, poultry, fish and other natural products offered for sale for human food or drink, whether on the streets or in public places, or in shops. 47 V. c. 32, s. 13. (10 *part*).

54. For licensing and regulating milk vendors, and for fixing the fee to be paid for such license at a sum not to exceed \$1 for one year. 47 V. c. 32, s. 13 (10 *part*).

55. For making provision for supplying blanks for the notification and recording of cases of contagious or infectious disease, for giving public notice of houses wherein such cases exist, and for taking such measures as by any Act respecting the public health or any other Act, are required to be taken in that behalf, and such other measures as may be necessary for preventing the spread of such diseases. 46 V. c. 18, s. 496 (13); 47 V. c. 32, s. 13 (11).

56. For procuring the necessary estimates, and making the proper application for ascertaining and establishing the boundary lines of the municipality, according to law, in case the same has not been done; and for erecting and providing for the preservation of the durable monuments required to be erected for evidencing the same. 46 V. c. 18, s. 490 (38).

57. For acquiring and holding, by purchase or otherwise for the public use of the municipality, lands situate outside the limits of such township, city, town or incorporated village; but such lands so acquired shall not form part of the municipality of such township, city, town, or incorporated village, but shall continue and remain as of the municipality where situate; and all by-laws passed by township councils for the purpose of acquiring land as provided by this sub-section, are hereby declared as legal and binding where the by-laws have not been contested or impeached before the 28rd day of April, 1887, as if the lands were within the limits of the municipality the council of which passed the by-law.

58. For erecting and maintaining weighing machines in villages or other convenient places, and charging fees for the use thereof, not being contrary to the limitations provided by sub-section 8 of section 497 of this Act. 50 V. c. 29, s. 25.

490. The council of every township, city, town and incorporated village, may also pass by-laws (not inconsistent with the Statutes of Canada respecting Cruelty to Animals)—

1. For providing sufficient yards and enclosures for the safe keeping of such animals as it may be the duty of the pound-keeper to impound;

2. For restraining and regulating the running at large or trespassing of any animals, and providing for impounding them; and for causing them to be sold, in case they are not claimed within a reasonable time, or in case the damages, fines and expenses are not paid according to law;

3. For appraising the damages to be paid by the owners of animals impounded for trespassing, contrary to the laws of Ontario or of the municipality.

4. For determining the compensation to be allowed for services rendered, in carrying out the provisions of any Act, with respect to animals impounded or distrained and detained in the possession of the distrainer. 46 V. c. 18, s. 492. See Cap. 215.

NOTE.—See R. S. O., 1887, Cap. 215, entitled “An Act respecting pounds.” (1) “*Until varied or other provisions are made by by-laws passed under the authority of section 490 of the Municipal Act, this Act shall be in force in every township, city, town and incorporated village in Ontario.*”

491.—(1) In case the council of any township, city, town or incorporated village adopts a resolution on the application of one-half of the resident landholders to be affected thereby, or upon its own motion, that it is expedient to place durable monuments at the front or rear of any concession or range or part thereof in the municipality, or at the front or rear angles of the lots therein, the council may apply to the Lieutenant-Governor, in the manner provided for in sections 38, 39 and 40 of *The Act respecting Land Surveyors and the Survey of Lands*, praying him to cause a survey of such concession or range, or such part thereof, to be made, and such monuments to be placed under the authority of the Commissioner of Crown Lands.

(2) The person or persons making the survey shall accordingly plant stones or other durable monuments at the front or at the rear of such concession or range, or such part thereof as aforesaid, or at the front and rear angles of every lot therein (as the case may be), and the limits of each lot so ascertained and marked shall be the true limits thereof; and the costs of the survey shall be defrayed in the manner prescribed by the said statute. 46 V. c. 18, s. 491.

492.—(1) In case any township, city, town, or incorporated village, shall be so situated that in the construction of any sewer therein it becomes necessary in order to procure an outlet therefor, to extend the same into or through a contiguous municipality, such township, city, town, or incorporated village so situated, shall be permitted and have power, subject as hereinafter provided, to so extend such

sewer into or through such contiguous municipality, and shall be permitted and have power to unite and connect the same to any already existing sewer or sewers of such contiguous municipality, upon such terms and conditions as shall be agreed upon between the respective municipalities, and in case of a difference, then upon such terms and conditions as shall be determined by arbitration under the provisions of this Act in that behalf.

(2) In any case where the council of any municipality shall object to allow an adjoining municipality to connect a sewer with any existing sewer or extend a sewer through its territory, as above provided, then and in every such case the arbitrators shall not only determine the terms and conditions upon which the connection or extension shall be allowed to be made; but also whether the connection or extension should, under the circumstances, be permitted or allowed to be made, but nothing in this section contained shall authorise the making of an open drain or sewer, nor shall anything herein affect the provisions of *The Ditches and Water-courses Act*.

(3) Nothing in this section contained shall be construed as limiting or abridging any of the powers conferred on township councils by this Act. 48 V. c. 89, s. 89 (4).

For powers of Cities, Townships, Towns and Villages as to Lock-up Houses, see secs. 458, 449; and as to Tavern and Shop Licenses, see Cap. 194.

POWERS OF COUNCILS OF TOWNSHIPS, CITIES AND TOWNS.

498. The council of every township, city and town may pass by-laws :

1. For licensing and regulating plumbers.
2. For making better provision for securing the inmates and employees in all factories, hotels, boarding and lodging houses, warehouses, theatres, music halls, opera houses and other public buildings and places of amusement, against accident by fire, and providing for the adoption and erection of proper fire escapes upon all such buildings more than two stories in height. 49 V. c. 87, s. 87 ; 50 V. c. 29, s. 48.

POWERS OF COUNCILS OF COUNTIES AND CITIES.

494. The council of every county or city shall provide by law, that a sum not less than \$20 shall be payable as a reward to any person or persons who shall pursue and apprehend, or cause to be apprehended, any person or persons guilty of stealing any horse or mare within the said county or city, and such reward shall be paid out of the funds of the corporation on the conviction of the thief, on the order of the Judge before whom the conviction is obtained. 48 V. c. 18, s. 494.

POWERS OF COUNCILS OF COUNTIES, CITIES AND SEPARATED TOWNS.

495. The council of any county, city and town separated from the county for municipal purposes, may pass by-laws for the following purposes :

1. For appointing, in addition to other officers, one or more engineers, and also one or more inspectors of the house of industry ; also one or more surgeons of the gaol and other institutions under the charge of the municipality ; and for the removal of such officers ;

2. For licensing, regulating and governing auctioneers and other persons selling or putting up for sale, goods, wares, merchandise or effects by public auction ; and for fixing the sum to be paid for every such license, and the time it shall be in force ; And for licensing, regulating and governing bill-posters, and for fixing the sum to be paid for every such license, and the time it shall be in force. 46 V. c. 18, s. 495, (1, 2). 58 V. c. 50, s. 20.

3. For licensing, regulating and governing hawkers or petty chapmen, and other persons carrying on petty trades, or who go from place to place or to other men's houses, on foot, or with any animal, bearing or drawing any goods, wares, or merchandise for sale, or in or with any boat, vessel, or other craft, or otherwise carrying goods, wares, or merchandise for sale, and for fixing the sum to be paid for a license for exercising such calling within the county, city or town, and the time the license shall be in force :

In case of counties for providing at the discretion of the council, either the treasurer or clerk of the county, or the

clerk of any municipality within the county with licenses, in this and the previous sub-section mentioned, for sale to parties applying for the same under such regulations as may be prescribed in such by-laws :

Provided always that no such license shall be required for hawking, peddling or selling from any vehicle or other conveyance any goods, wares or merchandise to any retail dealer, or for hawking or peddling any goods, wares or merchandise, the growth, produce or manufacture of this Province, not being liquors within the meaning of the law relating to taverns or tavern licenses, if the same are being hawked or peddled by the manufacturer or producer of such goods, wares or merchandise, or by his *bona fide* servants or employees having written authority in that behalf; and such servant or employee shall produce and exhibit his written authority when required so to do by any municipal or peace officer :

And provided also that nothing herein contained shall affect the powers of any council to pass by-laws, under the provisions of section 496 of this Act. 46 V. c. 18, s. 495 (8) ; 47 V. c. 92, s. 11.

(a) The word "hawkers" in this sub-section shall include all persons who, being agents for persons not resident within the county, sell or offer for sale tea, dry goods, watches, plated ware, silver ware or jewellery, or carry and expose samples or patterns of any of such goods to be afterwards delivered within the county to any person not being a wholesale or retail dealer in such goods, wares or merchandise. 55 V. c. 48, s. 86.

(b) The provisions of any by-law passed or enacted by any municipal council prior to the first day of October, 1885, shall not be held as extending to any persons who, by this sub-section are to be held as included within the meaning of the word "hawkers." 48 V. c. 40, ss. 1, 2.

4. For licensing and regulating ferries between any two places within the municipality, under the provisions of *The Act respecting Ferries*, and establishing the rate of ferriage to be taken thereon ; but no such law as to ferries

shall have effect until assented to by the Lieutenant-Governor in Council, but the powers by this sub-section conferred on county councils shall not extend to a ferry between any two places within the same township. 46 V. c. 18, s. 495 (4); 48 V. c. 39, s. 15.

- (a) Until the council passes a by-law regulating such ferries, and in the case of ferries not between two places in the same municipality, the Lieutenant-Governor, by Order in Council, may, from time to time, regulate such ferries respectively, and establish the rates to be taken thereon, in accordance with the statutes in force relating to ferries. 46 V. c. 18, s. 495 (4 a).

5. For establishing high schools and appointing high school trustees subject to the High Schools Act, and for obtaining in such part of the county, or of any city or town separated within the county, as the wants of the people may most require, the real property requisite for erecting high school houses thereon, and for other high school purposes, and for preserving, improving and repairing such school houses, and for disposing of such property when no longer required; 55 V. c. 43, s. 37.

6. For making provisions in aid of such high schools as may be deemed expedient;

Notwithstanding anything contained in this Act or in *The High Schools Act*, the county council of any union of counties may pass a by-law for the purpose of apportioning the amount to be levied for high school purposes, so that each county forming such union shall be liable only for the maintenance of the high schools situated within such county.

7. For making a permanent provision for defraying the expenses of the attendance at the University of Toronto, and at the Upper Canada College in Toronto, of such of the pupils of the public high schools of the county as are unable to incur the expense, but are desirous of, and in the opinion of the respective masters of such high schools, possess competent attainments for competing for any scholarship, exhibition or other similar prize offered by such University or College; See Cap. 226, s. 36 (4).

8. For making similar provision for the attendance at any high school, for like purposes, of pupils of public schools of the municipality; *See* Cap. 226, s. 36 (5).

9. For endowing such fellowships, scholarships or exhibitions, and other similar prizes, in the University of Toronto, and in the Upper Canada College at Toronto, for competition among the pupils of the public high schools in the county, as the council deem expedient for the encouragement of learning amongst the youth thereof; *See* Cap. 226, s. 36 (6).

10. For authorizing, on petition of at least fifty qualified electors of the municipality, the holding of public fairs at one or more of the most public and convenient places not separated from the municipality for municipal purposes;

- (a) The purpose for which such fairs may be held shall be restricted to the sale, barter and exchange of cattle, horses, sheep, pigs and articles of agricultural production or requirement.
- (b) The by-law to authorize the establishment of any such fair shall establish rules and regulations for the government of the same, and appoint a person whose duty it shall be to have them carried out, and shall also fix the fees to be paid him by persons attending the said fair.
- (c) The council authorizing the establishment of a public fair shall, immediately after the passing of a by-law for that purpose, give public notice of the same.

11. For licensing and regulating "junk" stores or shops, and for fixing the sum to be paid for a license so to have or keep such "junk" store or shop.

(12) For defining the areas within which tanneries hereafter erected, rag, bone, or junk shops, or other industries of a noxious or unhealthy character may not be carried on within the said municipality.

13. For establishing schools for the training and education of artisans, mechanics and workingmen in such subjects as may promote a knowledge of mechanical and manufacturing arts, and for acquiring such real property

as may be requisite for such schools ; and for erecting and maintaining suitable buildings thereon ; and for improving and repairing such school buildings, and for disposing of such property when no longer required.

- (a) The councils of any municipalities establishing such schools may appoint boards of trustees or managers to conduct the schools, giving them such authority or power for the management of the same, as the councils may deem expedient.

14. For making grants in aid of such schools as may be deemed expedient. 46 V. c. 18, s. 495 (5-11). 53 V. c. 50, s. 21, s-s. 12. 54 V. c. 42, s. 19, s-ss. 13 (a) 14.

POWERS OF COUNCILS OF CITIES, TOWNS AND INCORPORATED VILLAGES.

496. The council of every city, town and incorporated village may pass by-laws :

1. For manufacturing and supplying light and heat under *The Municipal Light and Heat Act*. 46 V. c. 21, s. 2 (1).

2. For preventing common begging, or persons in the streets from importuning others for help or aid in money, or deformed, or malformed, or diseased persons, from exposing themselves, or being exposed in the public streets to excite sympathy or induce help or assistance from general or public charity ;

4. For causing vacant lots to be properly enclosed ;

5. For preventing the leading, riding or driving of horses or cattle upon sidewalks or other places not proper therefor ;

6. For preventing persons in streets or public places from importuning others to travel in or employ any vessel or vehicle, or go to any tavern or boarding house, or for regulating persons so employed ;

7. For regulating the interment of the dead, and for preventing the same taking place within the municipality ;

8. For directing the keeping and returning of bills of mortality ; and for imposing penalties on persons guilty of default ;

9a. For regulating the construction of cranes, hoists and elevators and determining the manner in which elevators in buildings shall be constructed and worked (whether automatically or otherwise) and for providing for the inspection of all cranes, hoists and elevators, but none of the provisions of the by-laws shall be inconsistent with *The Factory Act* so far as the same provides for the regulation or construction of cranes, hoists and elevators. 58 V. c. 50, s. 22 (9a)

10. For regulating the erection of buildings and preventing the erection of wooden buildings, or additions thereto, and wooden fences in specified parts of the city, town or village ; and also for prohibiting the erection or placing of buildings, other than with main walls of brick, iron or stone, and roofing of incombustible material within defined areas of the city, town or village ; and for regulating the repairing or alteration of roofs or external walls of existing buildings within the said areas, so that the said buildings may be made more nearly fire-proof ; and for authorizing the pulling down or removal, at the expense of the owner thereof, of any building or erection which may be constructed, repaired or placed in contravention of any by-law ;

For regulating the erection or occupation of dwellings on narrow streets, lanes or alleys, or in crowded or unsanitary districts. 47 V. c. 32, s. 16. 52 V. c. 36, s. 24.

11. For appointing fire wardens, fire engineers and firemen, and promoting, establishing, and regulating fire companies, hook-and-ladder companies, and property-saving companies ;

12. For providing medals or rewards for persons who distinguish themselves at fires ; and for granting pecuniary aid or otherwise assisting the widows and orphans of persons who are killed by accident at such fires ;

13 For preventing or regulating the use of fire or lights in stables, cabinet makers' shops, carpenters' shops, and combustible places ;

14. For preventing or regulating the carrying on of manufactories or trades dangerous in causing or promoting fire ;

15. For preventing, and for removing or regulating, the construction of any chimney, flue, fire-place, stove, oven, boiler, or other apparatus or thing which may be dangerous in causing or promoting fire ;

16. For regulating the construction of chimneys as to dimensions and otherwise, and for enforcing the proper cleaning of the same, and for compelling manufacturers and others to have such chimneys or other apparatus as shall consume the smoke or prevent the same from fouling the atmosphere or being carried by the wind or otherwise to other shops, houses, or premises, to the inconvenience or injury of the neighbouring premises or residents therein ;

17. For regulating the mode of removal and safe keeping of ashes.

18. For regulating and enforcing the erection of party walls.

19. For compelling the owners and occupants of houses to have scuttles in the roof thereof, with approaches ; or stairs or ladders leading to the roof.

20. For causing buildings and yards to be put in other respects into a safe condition to guard against fire or other dangerous risk or accident.

21. For requiring the inhabitants to provide so many fire buckets, in such manner and time as may be prescribed ; and for regulating the examination of them, and the use of them at fires.

22. For authorizing appointed officers to enter at all reasonable times upon any property subject to the regulations of the council, in order to ascertain whether such regulations are obeyed, or to enforce or carry into effect the same.

23. For making regulations for suppressing fires, and for pulling down or demolishing adjacent houses or other erections, when necessary to prevent the spreading of fire.

24. For regulating the conduct, and enforcing the assistance of the inhabitants present at fires, and for the preservation of property at fires.

25. For compelling persons to remove all snow and ice from the roofs of the premises owned or occupied by them; and to remove and clear away all snow, ice and dirt, and other obstructions, from the sidewalks, streets and alleys adjoining such premises; and also to provide for the cleaning of sidewalks and streets adjoining vacant property, the property of non-residents, and all other persons who, for twenty-four hours, neglect to clean the same; and to remove and clear away all snow and ice, and other obstructions, from such sidewalks and streets, at the expense of the owner or occupant in case of his default; and in case of non-payment, to charge such expenses as a special assessment against such premises, to be recovered in like manner as other municipal rates. 46 V. c. 18, s. 496 (17-81).

- (a) The council may, in the by-law passed for the purposes of this sub-section, define certain areas or streets within the municipality, within or upon which the by-law shall be operative. 48 V. c. 39, s. 17.

26. For regulating and compelling the removal from any public wharf, dock, slip, drain, sewer, shore, bay, harbour, river or water, of all sunken, grounded or wrecked vessels, barges, craft, cribs, rafts, logs or other obstructions or incumbrances, by the owner, charterer or person in charge, or any other person who ought to remove the same; 47 V. c. 32, s. 12.

27. For regulating or preventing the encumbering, injuring or fouling, by animals, vehicles, vessels or other means, of any road, street, square, alley, lane, bridge or other communication;

28. For directing the removal of door-steps, porches, railings or other erections, or obstructions projecting into or over any road or other public communication, at the expense of the proprietor or occupant of the property connected with which such projections are found;

29. For numbering the houses and lots along the streets of the municipality, and for fixing the numbers to the

houses, buildings, or other erections along the streets, and for charging the owner or occupant of each house or lot, with the expense incident to the numbering of the same;

30. For keeping (and every such council is hereby required to make and keep) a record of the streets and numbers of the houses and lots numbered thereon respectively, and entering thereon, and every such council is hereby required to enter thereon a division of the streets with boundaries and distances for public inspection; 46 V. c. 18, s. 496 (32-35).

31. For surveying, settling, and marking the boundary lines of all streets, roads, and other public communications, and for giving names thereto, and affixing such names at the corners thereof, on either public or private property; but no by-law for altering the name of any street, square, road, lane, or other public communication, shall have any force or effect unless passed by a vote in favour thereof of at least three-fourths of the whole council, nor unless and until the by-law has been registered in the registry office of the registry division; and the registrar shall be entitled to a fee of \$1 for every by-law so registered, and for the necessary entries and certificates in connection therewith; 46 V. c. 18, s. 496 (36); 48 V. c. 39, s. 18.

- (a) Every by-law changing the name of a street in a city or town, shall state the reason for the change, and shall not be finally passed until the same has been approved by the County Judge.
- (b) The Judge, on an application by or on behalf of the municipal council, shall name a day, hour and place for considering the same, and for hearing the advocates of the change, and persons who may deem themselves aggrieved thereby and may desire to be heard, and any other persons the Judge may think fit.
- (c) A copy of the by-law and of the Judges appointment shall be served on the registrar or deputy registrar of the registry division at least two weeks before the time named, and shall be published once in the *Ontario Gazette* at least two weeks before the time so named, and at least weekly for four weeks in such other newspaper or newspapers as the Judge directs.

- (d) If the Judge approves of the change he shall certify to that effect, and his certificate shall be filed with the by-law in the registry office of the registry division in which the territory lies. The change shall take effect from the date of the registration of the certificate and not before. 50 V. c. 29, s. 26 ; 54 V. c. 42, s. 20.

82. For ascertaining and compelling owners, tenants and occupants to furnish the council with the levels of the cellars heretofore dug or constructed, or which may hereafter be dug or constructed along the streets of the municipality, such levels to be with reference to a line fixed by the by-laws ;

83. For compelling to be deposited with an officer, to be named in the by-law, before commencing the erection of any building, a ground or block plan of such building, with the levels of the cellars and basements thereof, with reference to a line fixed by the by-laws ; 46 V. c. 18, s. 496 (37, 38).

84. For charging all persons who own or occupy property which is drained into a common sewer, or which by any by-law of the council is required to be drained into such sewer, with a reasonable rent for the use of the same ; and for regulating the time or times and manner in which the same is to be paid ;

85. For accepting or purchasing any land in any other municipality which may be required for preventing such city, town or incorporated village, or any part thereof, being flooded by the surface or other waters flowing from such other municipality into such city, town or incorporated village, and for providing an outlet for such waters through any other municipality, and for opening, making, preserving and improving drains, sewers, and water-courses in the lands so acquired ; Provided always that the consent of the municipality in which the lands to be taken are situate shall be obtained before the powers conferred by this sub-section shall be exercised ; 46 V. c. 18, s. 496 (42, 43).

86. For regulating the conveyance of traffic in the public streets and the width of the tires and wheels of all vehicles used for the conveyance of articles of burden, goods, wares or merchandise, and for prohibiting heavy traffic, and the

driving of cattle, sheep, pigs and other animals in certain public streets and places to be named in the by-law; 47 V. c. 32, s. 14.

37. For prohibiting or regulating the practice of coasting or tobogganing on the public streets; 48 V. c. 39, s. 19.

38. For authorizing, and for assigning stands for vehicles kept for hire on the public streets and places, and for authorizing the erection and maintenance of covered stands or booths on the streets, highways and public places for the protection and shelter of the drivers of such vehicles: Provided that no such booth or covered stand shall be placed upon any sidewalk without the previous consent of the owner or lessee of the property fronting, abutting or adjoining such stand or booth;

39. For regulating the erection and maintenance of electric light, telegraph and telephone poles and wires within their limits; 54 V. c. 42, s. 21.

40. For preventing children from riding on the platform of cars, or behind waggons and other vehicles, and for preventing accidents arising from such causes; 46 V. c. 18, s. 496 (46-48).

41. For licensing and regulating the owners and keepers of stores and shops (other than taverns and shops holding licenses under *The Liquor License Act*) where tobacco, cigars or cigarettes are sold by retail, and for preventing the sale of tobacco, cigars or cigarettes to children under the age of fourteen years, except on the written order of the parent, guardian or employer of the child.

NOTE.—See 55 V. c. 52, “An Act respecting the use of Tobacco by minors.”

42. For inspecting public bathing houses and boat-houses, or premises wholly or partly used for boat-house purposes, and for preventing the use thereof for illegal or immoral purposes;

43. For appointing, employing and paying a night-watchman or watchmen, for the purpose of patrolling at night or between certain hours of the night, any street or streets or such portion or portions thereof within the muni-

cipality as may by such by-law be defined, and of guarding and protecting the property, real and personal, within the limits thereby defined.

(a) For levying by special rate upon all the real property within the limits defined by the by-law, except vacant lots, all the expenses of or incidental to such employment of such night-watchman or watchmen in the same manner and at the same time as payment of the other rates or taxes within the municipality is enforced ;

(b) No such by-law shall be passed except upon petition therefor by two-thirds of the freeholders and householders who, upon the passing thereof, would become liable to be charged with the expenses to be incurred thereunder, and who represent as value at least two-thirds of the assessed real property thereon liable to be charged with such expenses ;

(c) No such petition shall be received or acted on by the council unless, and until all the signatures thereon are proved by the affidavit of a reliable and competent witness to be the genuine signatures of the persons whose signatures they purport to be, and that the contents thereof were made known to each person signing the same before signature ;

(d) As between the landlord and tenant of premises comprised within the limits defined by said by-law, the tenant shall be liable for the expenses to be levied thereunder, for the period or time of his occupation, unless there is an express agreement to the contrary. 50 V. c. 26, s. 28. 52 V. c. 36, s. 25 (43), (a), (b), (c), (d).

497.—(1) No municipality shall impose, levy or collect a market fee upon any wheat, barley, rye, corn, oats, or upon any other grain, or upon any hay or other seed, or upon wool, lumber, lath or shingles, or cordwood or other firewood, or upon dressed hogs, or cheese, or upon hay, straw or other fodder, that may be brought to market, or to the market place, for sale or other disposal, or upon the person bringing, or the vehicle in which the same is or shall be brought.

(2) No market fee shall be charged, levied or imposed upon or in respect of butter, eggs or poultry brought to

market, or upon the market place for sale, unless a convenient and fit place in which to offer or expose the same for sale shall be provided by the municipality, which shall afford shelter in summer, and shelter and reasonable protection from the cold in winter.

(3) When the vendor of any article brought within the municipality in pursuance of a prior contract for the sale thereof, proceeds directly to the place of delivery thereof, under such contract, without hawking the same upon the streets or elsewhere in the municipality, it shall not be lawful to impose, levy or collect a market fee thereon, or in respect thereof, or on the vehicle in which the same is so brought.

(4) Where there is no prior contract as mentioned in the previous sub-section, no market fee shall be imposed, levied or collected upon or in respect of any article brought into any municipality after the hour of ten o'clock in the forenoon, nor on or in respect of any vehicle in which such article is so brought, unless such article is offered or exposed for sale upon the market place of the municipality.

(5) No by-law shall require hay, straw or other fodder to be weighed, or wood to be measured, where neither the vendor nor purchaser desires to have the same so weighed or measured.

(6) After nine o'clock in the forenoon, between the 1st day of April and the 1st day of November, and after ten o'clock in the forenoon, between the 1st day of November and the 1st day of April, no person shall be compelled to remain on any market place with any article which he may have been disposing or offering for sale in such market place, but may, after the expiration of such hour, proceed to sell such article elsewhere than in or on said market place; Provided that such person has paid the market fee on or in respect of such article, or the vehicle in which the same is contained.

(7) No market fees shall be imposed by any municipality higher than those contained in the following scale:

Upon articles brought to the market place in a vehicle drawn by two horses, upon which fees may be imposed, not more than.....10 cents.

Upon articles brought to the market place in a vehicle drawn by one horse, not more than... 5 cents..

Upon articles brought to the market place by hand or in any basket or vessel, not more than..... 2 cents..

Upon or in respect of live stock driven to or upon the market place for sale, as follows :

Every horse, mare, or gelding, not more than 10 cents.

Every head of horned cattle, not more than... 5 cents..

Every sheep, calf, or swine, not more than... 2 cents.

(8) No fee shall be imposed or levied by any municipality for weighing or measuring greater than as follows :

For weighing a load of hay.....15 cents..

For weighing slaughtered meat, or grain, or other articles exposed for sale, under one hundred pounds..... 2 cents..

Over one hundred pounds, and up to one thousand pounds..... 5 cents..

Over one thousand pounds.....10 cents..

For weighing live animals, other than sheep or pigs, per head..... 3 cents..

Sheep or pigs, if more than five, per head..... 1 cent.

If less than five, for the lot..... 4 cents..

For measuring a load of wood..... 5 cents.

(9) Subject to the other provisions of this section, the municipality may regulate the sale by retail in the public streets, or on vacant lots adjacent thereto, of any of the articles herein mentioned, and may regulate traffic in the streets, and prevent the blocking up of the same by vehicles or otherwise. 46 V. c. 18, s. 497.

498.—(1) The preceding section shall not apply to any municipality which shall pass, and so long as it shall keep in force, a by-law providing that the vendors of any articles in respect of which a market fee may, under this Act be

lawfully imposed, may, without paying market fees, offer for sale and sell or otherwise dispose of any such articles, at any place within the municipality, excepting only at and upon the market place or places thereof.

(2) Such by-law may, nevertheless, provide for the imposition and collection of market fees from such vendors of articles in respect of which a market fee may now be imposed, under this Act, as shall voluntarily use the market place for the purpose of selling such articles.

(3) The by-law may also provide for the imposition upon and collection of market fees from any person who shall remain, or cause his vehicle to remain upon that part of any street immediately adjoining or surrounding or being within a hundred yards of the market place, for the purpose of selling upon such street or streets such articles, so as to obtain the advantages of said market place, but driving through or across such portions of streets shall not of itself be deemed sufficient ground for the imposition of any fee; but this sub-section shall not apply to grain, seeds, dressed hogs or wool.

(4) The by-law shall not prevent the sale of any such articles to any person carrying on business and having an actual and *bona fide* store, shop or other similar place of business, on those portions of the streets in the next preceding sub-section mentioned; nor shall the by-law authorize the imposing or levying of any fee in respect of any article so sold, or of any vehicle in which the same is contained.

(5) It shall not be lawful for any municipality passing such by-law to impose a higher tariff or greater fee upon any article or vehicle than was in force or imposed by the municipality on the 1st day of March, 1882.

(6) No market fee shall be levied, collected or imposed by any municipality in respect of any market place or market, or any portion of any such market place or market hereafter established, declared or made in, on, or out of any street or part of any street within said municipality: Provided always that this sub-section shall not apply to so much of any street as immediately adjoins and abuts upon any market square, either now or hereafter established as a market place. 46 V. c. 18, s. 498.

499. The preceding section shall not apply to any municipality where no market fees were charged or imposed on the 10th day of March, 1882, but sections 497, 500 and 501 shall apply to such municipality in the event of market fees being thereafter charged or imposed therein. 46 V. c. 18, s. 499.

500. Nothing in the preceding sections contained shall prevent any municipality wherein no market fees are imposed or charged from regulating the sale and the place of sale of any articles within the municipality to the same extent as it might do before the 10th day of March, 1882: Provided always that market fees within the meaning of this section shall not include fees for weighing or measuring; Provided further, that after nine o'clock in the forenoon, between the 1st day of April and the 1st day of November, and after ten o'clock in the forenoon, between the 1st day of November and the 1st day of April, no person shall be compelled to remain on, or resort to, any market place with any articles which he may have for sale, but may, after the expiration of such hour, sell or dispose of such articles elsewhere than in or on said market places. 46 V. c. 18, s. 500.

501. When and so long as section 497 shall be in force and apply to any municipality, so much of any Act or law as may be contrary to, and as shall conflict with the same, shall not be in force in or apply to such municipality; and when and as long as section 498 shall be in force in and apply to any municipality, so much of any Act or law as may be contrary to, and as shall conflict with the same, shall not be in force in or apply to such municipality. 46 V. c. 18, s. 501.

502. Subject to the provisions of the last preceding five sections, every municipality shall have the power to sell, assign, or lease its market fees. 46 V. c. 18, s. 502.

503. The council of every city, town and incorporated village may, subject to the restrictions and exceptions contained in the last preceding six sections, also pass by-laws:

1. For establishing markets.

2. For regulating all markets established and to be established; the places, however, already established as markets in the municipality, shall continue to be markets, and shall retain all the privileges thereof until otherwise directed by competent authority; and all market reservations or appropriations heretofore made in any such municipality shall continue to be vested in the corporation thereof.

3. For preventing or regulating the sale by retail in the public streets, or vacant lots adjacent thereto, of any meat, vegetables, grain, hay, fruit, beverages small-ware, and other articles offered for sale. 46 V. c. 18 s. 508 (1-3).

4. For regulating the place and manner of selling and weighing grain, meat, vegetables, fish, hay, straw, fodder, wood, lumber, shingles, farm produce of every description, small-ware and all other articles exposed for sale, and the fees to be paid therefor; and also for preventing criers and vendors of small-ware from practising their calling in the market place, public streets and vacant lots adjacent thereto.

5. For granting annually, or oftener, licenses for the sale of fresh meat in quantities less than by the quarter carcase, and for regulating such sale, and fixing and regulating the places where such sale shall be allowed, and for imposing a license fee not exceeding \$50 in cities and \$25 in towns and incorporated villages to be paid for such license, and for enforcing the payment of the same, and for preventing the sale of fresh meat in quantities less than by the quarter carcase, unless by a person holding a valid license and in a place authorized by the council, but nothing herein contained shall affect the powers conferred in the preceding sub-section: Provided that this sub-section shall not be qualified as respects shops or stalls occupied by butchers or others for the sale of fresh meat in quantities less than by the quarter carcase within the said municipality by anything contained in sections 497 or 500 of this Act. 46 V. c. 18, s. 508 (5, 6). 46 V. c. 18, s. 508 (7); 50 V. c. 29, s. 29. 53 V. c. 50, s. 28.

6. For preventing the forestalling, regrating or monopoly of market grains, wood, meats, fish, fruits, roots, vegetables, poultry, and dairy products, eggs and all articles required for family use, and such as are usually sold in the market.

7. For preventing and regulating the purchase of such things by hucksters, grocers, butchers or runners ; 46 V. c. 18, s. 508 (8).

8. For regulating the measuring or weighing (as the case may be) of lime, shingles, laths, cordwood, coal and other fuel ; 46 V. c. 18, s. 508 (9) ; 49 V. c. 87, s. 18.

9. For imposing penalties for light weight or short count or short measurement in anything marketed ; *See* sec. 479 (21).

10. For regulating all vehicles, vessels, and all other things in which anything is exposed for sale or marketed and for imposing a reasonable duty thereon, and establishing the mode in which it shall be paid.

11. For selling, after six hours' notice, butchers' meat distrained for rent of market stalls ; 46 V. c. 18, s. 508 (10-12).

12. For regulating the assize of bread. 46 V. c. 18, s. 508 (13 *part*). *See* sec. 479 (21).

POWERS OF COUNCILS OF CITIES AND TOWNS.

504. The council of every city and town may pass by-laws ;

1. For licensing and regulating suitable persons to keep intelligence offices, for registering the names and residences of, and giving information to, or procuring servants, labourers, workmen, clerks or other employees for employers in want of the same, and for registering the names and residences of, and giving information to, or procuring employment for domestic servants and other labourers and any other class of servant, workman, clerk or person seeking employment, and for fixing the fees to be charged and recovered by the keepers of such offices ; 50 V. c. 29, s. 80.

2. For the regulating of such intelligence offices ;

3. For limiting the duration of or revoking any such license ;

4. For prohibiting the opening or keeping of any such intelligence office within the municipality without license ;

5. For fixing the fee to be paid for such license, not exceeding \$10 for one year.

NOTE—By 53 V. c. 50, s. 24, the foregoing sub-sections apply to counties, townships and incorporated villages.

5a. For granting money to aid and assist in the construction of public bathing houses within the municipality, to borrow money for such purposes and to issue debentures to secure the re-payment thereof. 46 V. c. 18, s. 504 (2-5). 54 V. c. 42, s. 22 (5a).

6. For establishing, regulating and maintaining a police; but subject to the other provisions of this Act ;

7. For aiding and assisting by annual money grant or otherwise, as the council may deem expedient, the establishment and maintenance of superannuation and benefit funds for the benefit of the members of the police force and fire brigades, and of their families respectively, where police forces and fire brigades are established ;

8. For acquiring any estate in landed property within or without the city or town for an industrial farm, or for a public park, garden or walk, or for a place for exhibitions, and for the disposal thereof when no longer required for the purpose ; and for accepting and taking charge of landed property, within or without the city or town, dedicated for a public park, garden or walk for the use of the inhabitants of the city or town. *See* secs. 460, 462.

9. For the erection thereon of buildings and fences for the purposes of the farm, park, garden, walk or place for exhibitions as the council deems necessary ;

10. For the management of the farm, park, garden, walk or place for exhibitions and buildings ;

11. For establishing and regulating within the city or town, or on the industrial farm or ground held for public exhibitions, one or more almshouses or houses of refuge for the relief of the destitute, and also for aiding charitable institutions within the city or town. *See* sec. 479 (12), and *as to Workhouses*, sec. 462.

12. For appointing any provincial land surveyor to be the corporation surveyor. 46 V. c. 18, s. 504 (7-18).

13. For constructing gas and water works, and for levying an annual special rate to defray the yearly interest of the expenditure therefor, and to form an equal yearly sinking fund for the payment of the principal within a time not exceeding thirty years, nor less than five years.

14. For building, equipping, maintaining and operating street railways in, along and over such streets of the city or town and subject to and upon such terms as the Lieutenant-Governor in Council may approve, and for leasing the same from time to time on such terms as may be determined on and for levying an annual special rate to defray the yearly interest on the expenditure therefor, and to form an equal yearly sinking fund for the payment of the principal within a time not exceeding 30 years, provided that the powers conferred by this sub-section shall not apply to a municipality in which there is an existing street railway constructed or operated under any agreement or contract between the municipality and any street railway company.

15. A municipal corporation which builds, constructs, owns, or manages a street railway shall have and exercise the same rights and powers and be subject to the same liabilities as street railways and companies under *The Street Railway Act*, except where the same shall conflict or be inconsistent with or be repugnant to the rights, powers, liabilities or duty of a municipal corporation as provided by law. Nothing herein contained shall relieve any municipality from the obligations and liabilities in respect of roads, streets, highways, or bridges as provided by this Act.

NOTE.—See provisions set forth in sections 546, 686.

16. In addition to the powers given and contained in sub-section 14 of this section any city or town operating or proposing or intending to build or operate a street railway within its own limits may also pass by-laws for building, equipping, maintaining and operating any extension of any such street railway in any adjoining municipality with the consent of such adjoining municipality by by-law, and subject to and upon such terms as the Lieutenant-Governor in Council may approve, upon the same terms and subject to the same conditions and provisions of law as any street railway

company may build, maintain or operate any street railway under *The Street Railway Act* or any amendments thereof; and such city or town building, constructing, owning or managing a street railway extending beyond its territorial limits and authorized as aforesaid and with the consent aforesaid shall not be held to be illegally expending money, merely because it is expended upon or in connection with such portion of said street railway as may extend beyond its territorial limits. 46 V. c. 18, s. 504 (14). 53 V. c. 50, s. 25 (14), (15). 54 V. c. 42, s. 28 (16).

505. No by-law under sub-sections 13 and 14 of the preceding section shall be passed—

Firstly:—Until estimates of the intended expenditure have been published for one month, and notice of the time appointed for taking a poll of the electors on the proposed by-law has been published for two months, and a copy of the proposed by-law at length, as the same may be ultimately passed, and a notice of the day appointed for finally considering the same in council, have been published for three months, in some newspaper in the municipality; or if no newspaper is published therein, then in some newspaper in the county in which the municipality is situate;

Nor, secondly:—Until, at a poll held in the same manner and at the same places and continued for the same time as at elections for councillors, a majority of the electors, voting at the poll, vote in favour of the by-law;

Nor, thirdly:—Unless the by-law is passed within three months after holding the said poll.

Provided always that where any city or town shall have constructed gas or water works under the authority of this Act, or under the authority of *The Municipal Water Works Act 1882*, or under the authority of any special Act or Acts, or shall hereafter construct such works under the authority of the said Acts or any future amendments of the same, and shall have raised the money for the purchase or construction of such works, or shall hereafter so raise the same by a general rate on the whole of the assessable property of the said corporation under a by-law or by-laws lawfully passed or to be passed, it shall be lawful for the council of the city or town to raise on the credit of the said corporation such further sums as may be necessary to extend or

improve the said works or to pay the expense of any extensions or improvements thereof already made or completed wholly or in part from time to time on the whole ratable property of the said corporation by by-laws to be passed as required by sub-section 13 of section 504 of this Act, and without complying with the requirements of this section, and it shall not be necessary to obtain the assent of the electors or ratepayers to such by-law or by-laws, provided the same shall first be approved of by the Lieutenant-Governor in Council, it being first shewn to the satisfaction of the Lieutenant-Governor in Council that the said extensions are or were necessary, and that a sufficient additional revenue will be derived therefrom to meet the annual special rate required to pay the new debt and interest; and provided also that on the final passing of such by-law or by-laws, three-fourths of all the members of the council shall vote in favour of the same. 46 V. c. 18, s. 505. 51 V. c. 28, s. 24. 53 V. c. 50, ss. 26, 28. 54 V. c. 42, s. 32.

506. If the proposed by-law is rejected at such poll, no other by-law for the same purpose shall be submitted to the electors during the current year. 46 V. c. 18, s. 506.

507. In case there is any water company incorporated for the municipality, the council shall not levy any water rate until such council has, by by-law, fixed a price to offer for the works or stock of the company; nor until after thirty days have elapsed after notice of such price has been communicated to the company without the company's having accepted the same, or having, under the provisions of this Act as to arbitrators, named and given notice of an arbitrator to determine the price, nor until the price accepted or awarded has been paid, or has been secured to the satisfaction of the company. 46 V. c. 18, s. 507.

508. The foregoing clauses or any of them shall not be construed to apply to, or affect the provisions contained in, any special Act obtained, or to be obtained, by any company or municipal corporation. 46 V. c. 18, s. 508.

POWERS OF COUNCILS OF TOWNSHIPS, TOWNS AND VILLAGES.

509. The council of every township, town or village may pass by-laws;

For borrowing money and issuing debentures therefor, for the purposes and subject to the provisions of *The Tile, Stone and Timber Drainage Act*.

2. For making grants in aid of any high school or collegiate institute, or to build, preserve, enlarge or improve any high school or collegiate institute in any adjacent or other municipality. 46 V. c. 18, s. 509. 51 V. c. 28, s. 25 (2).

**POWERS OF COUNCILS OF TOWNS AND INCORPORATED
VILLAGES.**

510. The council of every town and incorporated village may pass by-laws :

For regulating and licensing the owners of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles for hire ; for establishing the rates of fares to be taken by the owners or drivers, and for enforcing payment thereof, and for defining localities or districts within the limits of which no livery or boarding stable shall hereafter be established.

29. The council of every town shall have and shall be deemed to have always had the power to pass a by-law for regulating and licensing teamsters, carters and draymen and regulating the charges for the conveyance of goods or for other services. 48 V. c. 18, s. 510. 52 V. c. 86, s. 27. 58 V. c. 50, s. 29.

EXCLUSIVE POWERS OF COUNCILS OF COUNTIES.

511. The council of every county may make by-laws :

1. For protecting and regulating booms on any stream or river for the safe keeping of timber, saw-logs, and staves within the municipality ;

2. For guaranteeing debentures of any municipality within the county, as the council may deem expedient ; 46 V. c. 18, s. 511.

3. For the exercise, in respect of fences along highways, or parts thereof, which it is the duty of the council to maintain, of the powers conferred upon the councils of townships, cities, towns and incorporated villages, by sub-sections 17 and 20 of section 489 of this Act. 48 V. 39, s 14.

(a) The council of every county shall be deemed and held to have had, and possessed on, from, and since the first day of February, 1883, the powers conferred by this sub-section, and also the power

to assist, aid, and compensate, either by payment of money or otherwise, any owner or occupier of land bordering upon any public highway within the county for the taking down, altering or removing any fence or fences, which in the opinion of the council, would be likely to cause such an accumulation of snow or drift as would impede or obstruct travel on such highway or any part thereof, or for the erection and construction of some other description of fence, approved of, or designated by the council, and subject to such terms and conditions in that behalf as by such council have been or shall be fixed and prescribed.

511 (α)—(1) The council of any county may pass a by-law providing that no sled, sleigh, or other vehicle upon runners (except cutters or pleasure sleighs) drawn by horses or other animals, shall be used by any person residing within the county for the conveyance of persons or goods, on any of the roads or highways within the county, unless the runners thereof shall be apart from each other at the bottom, at least, three feet, nine inches; Provided that no such by-law shall apply to any sled, sleigh or other vehicle upon runners owned or used by any person not resident within the said county.

(2) The council in passing such by-law may exempt from its operation all sleds, sleighs or vehicles on runners owned at the time of the passing of such by-law by any persons resident within the county.

(3) The by-law shall not come into force until the expiration of one year from the time of the passing thereof, or such further time as the council may determine upon. 49 V. c. 87, s. 85. 51 V. c. 28, s. 26 (511a (1) (2) (3)).

512. The council of every county, having county gravel or macadamized roads within its jurisdiction, and under its immediate control, such roads being kept up and repaired by municipal taxation, and upon which no toll is collected, shall have power to pass a by-law or by-laws for regulating and licensing the owners of livery stables, and of horses, cabs, carriages, omnibuses, and all other vehicles used or kept for hire; and for issuing and regulating teamsters' licenses; for regulating the width of tire used on such vehicles; for establishing the rates of fare that may be collected or taken by the owners or drivers; for enforcing the

payment of such licenses, regulating rates of fares for the conveyance of goods or passengers; and for enforcing the width of tire that may be used on such vehicles, when travelling on the aforesaid county gravel or macadamized roads. 46 V. c. 18, s. 512.

513. Every county council shall appoint at its first meeting in each year two persons, not more than one of whom shall belong to the council, to be members of the board of audit, for auditing and approving accounts and demands preferred against the county, the approving and auditing whereof previous to the 19th day of December, 1868, belonged to the General Quarter Sessions. 46 V. c. 18, s. 513.

514. The council may pay the members of the said board of audit any sum not exceeding \$4 each per day for their attendance at such audit, and five cents for each mile necessarily travelled in respect thereof in going to and from such audit. 46 V. c. 18, s. 514.

515. The councils of united counties may make appropriations and raise funds to enable either county, separately, to carry on such improvements as may be required by the inhabitants thereof. 46 V. c. 18, s. 515.

516. Whenever any such measure is brought before the council of any united counties, none but the reeves and deputy reeves of the county to be affected by the measure shall vote; except in case of an equality of votes, when the warden, whether a reeve or deputy reeve of any portion of the county to be affected by the measure or not, shall have the casting vote. 46 V. c. 18, s. 516.

517. In all other respects, all the provisions of this Act making provisions for the payment of the amounts appropriated, whether to be borrowed upon a loan or to be raised directly by taxation, shall be adhered to. 46 V. c. 18, s. 517.

518. The treasurer of the united counties shall pay over all sums so raised and paid into his hands by the several collectors, without any deduction or percentage. 46 V. c. 18, s. 518.

519. The property to be assessed for the purposes contemplated in the last preceding four sections of this Act, shall be the same as the property assessed for any other county

purpose, except, that any sum to be raised for the purposes of one county only, or for the payment of any debt contracted for the purposes of one county only, shall be assessed and levied solely upon property assessed in that county, and not upon property in any other county united with it, and any debenture that may be issued for such purposes may be issued as the debenture of the said one county only and shall be as valid and binding upon that county as if that county were a separate municipality, but such debentures shall be under the seal of the united counties, and be signed by the warden thereof. 46 V. c. 18, s. 519.

520. The county council of each county shall, from time to time, make provision for the whole or partial support either in the county gaol or some other place within the county, of such insane destitute persons as cannot properly be admitted to the Provincial asylums, and shall determine the sum to be paid for such support, and also the parties to whom such sums shall be paid by the county treasurer. 46 V. c. 18, s. 520.

EXCLUSIVE POWERS OF COUNCILS OF TOWNSHIPS.

521. The council of every township, may pass by-laws—

1. For empowering any person (resident or non-resident) liable to statute labour within the municipality, to compound for such labour, for any term not exceeding five years, at any sum not exceeding \$1 for each day's labour;

2. For providing that a sum of money, not exceeding \$1 for each day's labour, may or shall be paid in commutation of such statute labour;

3. For increasing or reducing the number of days' labour, to which the persons rated on the assessment roll or otherwise shall be liable, in proportion to the statute labour to which such persons are liable in respect of the amounts at which they are assessed or otherwise respectively;

4. For enforcing the performance of statute labour, or payment of a commutation in money in lieu thereof, when not otherwise provided by law

5. For regulating the manner and the divisions in which statute labour or commutation money shall be performed or expended;

6. For reducing the amount of statute labour to be performed by the ratepayers or others within the municipality, or for entirely abolishing such statute labour. 46 V. c. 18, s. 521 (1-6).

7. For providing for the making and keeping open of township roads during the season of sleighing in each year, and for appointing overseers of highways, or pathmasters to perform that duty, and such overseers and pathmasters shall have full power to call out persons liable to perform statute labour within their respective municipalities, to assist in keeping open such roads, and may give to such persons as may be employed in so doing certificates of having performed statute labour to the amount of the days' work done, and such work shall be allowed for to such persons in their next season's statute labour ;

8. For providing for the application of so much of the commutation of the statute labour fund as may be necessary for keeping open such roads as last aforesaid within such respective municipalities. 48 V. c. 39, s. 20, *part*.

NOTE.—See R. S. O. 1887, cap. 197, s. 5, *Re* Snow Roads ; cap. 202, s. 9, *Re* the Spread of Noxious Weeds, etc. ; cap. 188, s. 6, *Re* Exemption of Firemen, also the Assessment Act, ss. 87-118.

9. For acquiring lands in any town or incorporated village within, or partly within, the original boundaries of the township, for the purpose of erecting thereon a town hall, or for renting or acquiring a hall, within such town or village, for the purpose of a town hall ;

10. Any township owning, renting or otherwise acquiring a town hall in any such town or village may hold at such town hall, any meeting, nomination, or election, or post at such town hall any notice, assessment roll, or voters' list, or do thereat any other act required by law to be held, posted or done in the township at the town hall, and any meeting of any mutual insurance company, or upon the formation thereof, which is required by any statute to be held in the municipality, may lawfully be held in such hall. 46 V. c. 18, s. 521 (7, 8).

11. For licensing and regulating ferries between any two places within the township with the same rights and powers in respect thereof, and as to establishing rates as are con-

ferred upon county councils by sub-section 4 of section 494 of this Act, and upon the same terms and conditions as are provided by said sub-section 4; but this shall not apply to any ferry for which a license has been granted prior to the 30th day of March, 1885, and was then running, until the expiry of such license. 48 V. c. 39, s. 16.

12. For purchasing from the Government or any corporation or person, at a price (in case of Crown Lands, to be fixed by the Lieutenant-Governor in Council, and which price the Lieutenant-Governor in Council is hereby authorized to fix), all the wet lands at the disposal of the Crown or such corporation or person in such township; and such lands may be sold accordingly to the corporation of such township;

(a) The purchase and draining of such lands shall be one of the purposes for which any such corporation may raise money by loan or otherwise, or for which they may apply any of their funds not otherwise appropriated.

(b) The corporation of a township may possess and hold the land so purchased, and may, whenever they deem it expedient, sell or otherwise depart with or dispose of the same by public auction, in like manner as they may by law sell or dispose of other property, and upon such terms and conditions, and with such mortgages upon the land so sold, or other security for the purchase money or any portion thereof, as they may think most advantageous.

(c) The proceeds of the sale of such lands shall form part of the general funds of the municipality. 46 V. c. 18, s. 482 (21).

13. For declaring that in the case of any lands, the boundary line, or any part of the boundary line whereof passes through a marsh or swamp, or any land covered with water, the same shall, so far as respects that part of such boundary line which so passes through a marsh or swamp, or land covered with water, be deemed to be wholly enclosed within the meaning of section 1 of *The Act respecting Petty Trespasses*, if posts are put up and maintained along such part of such line at distances which will permit of each being clearly visible from the adjoining post. 50 V. c. 29, s. 50.

14. For regulating slaughter houses and manufactures or trades which may prove to be nuisances. 49 V. c. 37, s. 14.

15. For regulating the construction of dry earth closets and compelling the use of the same within such limits within the municipality as may be defined by the by-law. 50 V. c. 29, s. 31.

16. For preventing the obstruction of streams, creeks and water-courses, by trees, brushwood, timber or other materials, and for clearing away and removing such obstructions at the expense of the offenders or otherwise ;

17. For levying the amount of such expense, in the same manner as taxes are levied ;

18. For imposing penalties on parties causing such obstructions.

(19) For regulating the distance from any public highway within the municipality within which unenclosed portable steam-engines may be used for running a sawmill or shingle mill, and preventing the use of the same for either of such purposes within such distance.

(20) for imposing penalties on parties setting up or operating a portable steam-engine for either of such purposes in contravention of such by-law.

(21) For giving and paying bounties not exceeding \$5.00 per head for the destruction of foxes and other wild animals which kill or destroy poultry. 46 V. c. 18, s. 521 (9-11). 51 V. c. 28, ss. 27, 28—55 V. c. 43, s. 19, 20, 21.

522.—(1) Whenever any stream or creek in any township is cleared of all logs, brush or other obstructions to the town line between such township and any adjoining township into which such stream or creek flows, the council of the township in which the creek or stream has been cleared of obstruction may serve a notice in writing on the head of the council of the adjoining township into which the stream or creek flows, requesting such council to clear such stream or creek through their municipality ; and it shall be the duty of such last named council, within six months after the service of the notice as aforesaid, to enforce the removal of all obstructions in such creek or stream within their municipality, to the satisfaction of any person whom

the council of the county, in which the municipality whose council served the notice is situate, shall appoint to inspect the same. And if the council receiving such notice shall neglect the said duty, and by reason of such neglect any public road, street, bridge, or highway in either of the said townships shall be out of repair, the corporation in default, but not the corporation that served the notice, shall, besides being subject to any punishment or proceeding provided by law, be civilly responsible for all damages sustained by any person by reason of such want of repair; but the action must be brought within three months after the damages have been sustained. 46 V. c. 18, 522; 51 V. c. 28, s. 28.

523. No stone, gravel or other material shall be put upon the roads for repairs during the winter months so as to interfere with sleighing. 48 V. c. 39, s. 20 *part*.

POWERS AND DUTIES OF COUNCILS AS TO HIGHWAYS AND BRIDGES.

524. All allowances made for roads by the Crown surveyors in any town, township or place already laid out or hereafter laid out; and also all roads laid out by virtue of any statute, or any roads whereon the public money has been expended for opening the same, or whereon the statute labour has been usually performed, or any roads passing through the Indian lands, shall be deemed common and public highways, unless where such roads have been already altered, or may hereafter be altered according to law. 46 V. c. 18, s. 524. *See* Cap. 152, secs. 44, 45, 62 (1).

525. Unless otherwise provided for, the soil and freehold of every highway or road altered, amended or laid out according to law, shall be vested in Her Majesty, Her Heirs and successors. 46 V. c. 18, s. 525.

NOTE.—The soil and freehold of roads are vested in the Crown.

526. Subject to the exceptions and provisions herein after contained, every municipal council shall have jurisdiction over the original allowances for roads and highways and bridges within the municipality. 46 V. c. 18, s. 526.

527. Every public road, street, bridge or other highway, in a city, township, town or incorporated village, shall be vested in the municipality, subject to any rights in the soil which the individuals who laid out such road, street, bridge, or highway reserved, and except any concession or other road within the city, township, town or incorporated village, taken and held possession of by an individual in lieu of a street, road or highway laid out by him without compensation therefor. 46 V. c. 18, s. 527.

NOTE.—Public roads, streets, bridges and other highways are vested *in the municipality*, within which they are situated; in other words, they are made to form part of such municipality. Distinguish between “Municipality” and “Corporation.” See note to section 525.

528. The council of every city and town may respectively pass by-laws for acquiring and assuming possession of and control over, any public highway or road in an adjacent municipality by and with the consent of such municipality, the same being signified by a by-law passed for that purpose, for a public avenue or walk;

And for acquiring from the owners of the land adjacent to such highway or road, such land as may be required on either side of such highway or road to increase the width thereof to the extent of 100 feet or less, subject to the provisions of section 483 of this Act. 46 V. c. 18, s. 528.

529. The councils of every county and incorporated village may pass by-laws for carrying out any arrangement between them for the assumption, by the village municipality, of any bridge within its limits, under the jurisdiction of the county council, and for such bridge being toll free; and for the payment by the village municipality to the county municipality of any part of the cost of the construction of such bridge;

After the passing of such by-laws the bridge shall be, and remain, under the exclusive jurisdiction of the village municipality; and the village municipality shall be subject to all the liabilities in the premises, which but for the transfer would have devolved on the county municipality; and the bridge shall be and remain toll free. 46 V. c. 18, s. 529.

530. The approaches for 100 feet to and next adjoining each end of all bridges belonging to, assumed by, or under the jurisdiction of any municipality or municipalities, shall be kept up and maintained by such municipality or municipalities: the remaining portion or portions of such approaches shall be kept up and maintained by the local municipalities in which they are situate. 46 V. c. 18, s. 530.

531.—(1) Every public road, street, bridge and highway shall be kept in repair by the corporation, and on default of the corporation so to keep in repair, the corporation shall, besides being subject to any punishment provided by law, be civilly responsible for all damages sustained by any person by reason of such default, but the action must be brought within three months after the damages have been sustained.

(2) This section shall not apply to any road, street, bridge or highway laid out by any private person, and the corporation shall not be liable to keep in repair any such last mentioned road, street, bridge or highway, until established by by-law of the corporation, or otherwise assumed for public use by such corporation. 46 V. c. 18, s. 531.

(3) The corporation shall, in the absence of an agreement to the contrary, keep in repair all crossings, sewers, culverts and approaches, grades, sidewalks, and other works made or done by the council of any municipality, or by any person with the permission of the said council, upon any toll road in or through the said municipality, and on default so to keep in repair shall be responsible for all damages sustained by any person by reason of such default, but the action must be brought within three months after the damages have been sustained. 47 V. c. 32, s. 17; 48 V. c. 39, s. 21.

(4) In case an action is brought against a municipal corporation to recover damages sustained by reason of any obstruction, excavation or opening in or near to a public highway, street or bridge placed, made, left or maintained by another corporation or by any person other than a servant or agent of the municipal corporation, the last mentioned corporation shall have a remedy over against the other corporation or person for and may enforce payment accordingly of the damages and costs, if any, which the plaintiff in the action may recover against the municipal corporation.

(5) The municipal corporation shall be entitled to such remedy over in the same action, if the other corporation or person shall be made a party to the action, and if it shall be established in the action as against the other corporation or person, that the damages were sustained by reason of an obstruction, excavation or opening as aforesaid, placed, made, left or maintained by the other corporation or person, and the municipal corporation may in such action have the other corporation or person added as a party defendant or third party for the purposes hereof, if the same is not already a defendant in the action jointly with the municipal corporation, and the other corporation or person may defend such action as well against the plaintiff's claim as against the claim of the municipal corporation to a remedy over, and the court or judge upon the trial of the action may order costs to be paid by or to any of the parties thereto, or in respect of any claim set up therein as in other cases.

(6) If such other corporation or person be not a party defendant to such action, or be not added as a party defendant or third party, or if the municipal corporation shall pay the claim for such damages before any action is brought to recover the same, or before any recovery of damages or costs against the municipal corporation, such municipal corporation shall have a remedy over by action against any other corporation or person for such damages and costs as have been sustained by reason of any obstruction, excavation or opening placed, made, left or maintained by the other corporation or person, provided always that such other corporation or person shall be deemed to admit the validity of the judgment, if any, obtained against such municipal corporation in cases only where a notice has been served on such other corporation or person pursuant to the provisions of rule 829 of the consolidated rules made under the authority of *The Judicature Act*, or where such other corporation or person has admitted, or is estopped from denying the validity of such judgment, and where no such notice has been served, and there has been no such admission or estoppel, and the other corporation or person has not been made a party defendant or third party to the action against such municipal corporation, or where such damages have been paid without action, or without recovery of judgment against the municipal corporation, the liability of the municipal corporation for such damages, and the fact that the damages were sustained by

reason of an obstruction, excavation or opening placed, made, left or maintained by the other corporation or person, shall be established in the action against such other corporation or person in order to entitle the municipal corporation to recover in such action.

(7) Where two or more municipalities are jointly liable for the keeping in repair of a public road, street, bridge or highway, there shall be contribution between them as to the damages sustained by any person by reason of their default in keeping the same in repair and if an action shall be brought by any such person the same shall be brought against all of such municipalities and any of the defendants in any such action may require that the proportions in which such damages and the costs of the action shall be borne between them shall be determined therein and in settling such proportions either in the action or otherwise, regard shall be had to the extent to which each municipality was responsible, either primarily, or otherwise, for the act or omission for which the damages shall become payable or be recovered, and the damages and costs shall be apportioned between them accordingly. 50 V. c. 29, s. 33. 54 V. c. 42, s. 24; 55 V. c. 43, s. 46.

NOTE.—Blackstone says : “ Every parish is bound of common right to keep their highways in good and sufficient repair ; unless by reason of the tenure of lands or otherwise, this care is consigned to some particular private person. From this burden no man was exempt by our ancient laws, whatever other immunities he might enjoy, this being part of the *trinoda necessitas* to which every man’s estate was subject, viz., expedition against the enemy, building of castles, and reparation of bridges ; for though *bridges* only are expressed yet the roads were always understood.”

From the very nature of the interlacing system of roads, streets and highways in a municipality it is to be expected that in order to arrive at a given point, free access may be had thereto, upon and along any and every of such thoroughfares as may be selected for travel, and the Corporation is required to keep all public highways in such good and

sufficient repair as will make them fit and safe for public travel, and in case of sudden breach or obstruction, necessary excavation or other interruption of public traffic, to give proper notice by way of guards, lights or suspended thoroughfare, until proper repairs have been made. A reasonable time will generally be allowed, within which, notice of any recent obstruction or sudden breach in a public highway may be had by the Council of the Corporation or its officers, to enable them to remove the obstruction or repair the defect, and if promptly attended to, the Corporation will seldom be held liable in an action for damages; on the other hand, a knowledge of the defect and neglect to repair implies liability for damages. Instructions should always be given to Commissioners or overseers in emergent cases to repair or guard all dangerous portions or recent defects on public roads without delay and report the same to a member of the Council.

In an action for damages arising from a defective road, bridge or sidewalk, a jury will take into account, amongst other things, the diligence and precaution exercised by the Corporation in the interest of the travelling public, as well as any contributory negligence on the part of the traveller.

It will be observed that all highways which are original allowances for road and roads assumed and established by by-law, or upon which statute labour is usually performed, must be kept in repair by the Corporation. See also s. 496, s.s. 27.

532. The county council shall have exclusive jurisdiction over all roads and bridges lying within any township, town or village in the county, and which the council by by-law assumes with the assent of such township, town or village municipality as a county road, or bridge, until the by-law has been repealed by the council, and over all bridges across streams or ponds or lakes separating two townships in the county, and over all bridges crossing

streams or rivers over 100 feet in width, within the limits of any incorporated village in the county, and connecting any main highway leading through the county, and over all bridges over rivers or ponds or lakes forming or crossing boundary lines between two municipalities. 46 V. c. 18, s. 532; 50 V. c. 29, s. 34; 51 V. c. 28, s. 30.

§ 33. Any county council may assume, make and maintain any township or county boundary line at the expense of the county, or may grant such sum or sums from time to time for the said purposes as they may deem expedient. 46 V. c. 18, s. 533.

533a—(1) A township or village, and any town containing by the last official census a population of four thousand or less which is so situate in respect of rivers or streams as to require for the convenience of the public,

(a) The construction and maintenance by such local municipality of bridges one hundred feet in length or more, requiring (having regard to the other municipalities of the county) greatly disproportionate expenditure by such local municipality, either from the number of bridges or the cost thereof; or—

(b) Which, having reference to the population and assessed value of such local municipality, require for such construction or maintenance excessive or greatly disproportionate burdens upon the ratepayers thereof;

May notify the county council of any or all of the foregoing circumstances and that such municipality claims from the county council contribution of a share or percentage of the cost of construction and maintenance of such bridges one hundred feet in length or more, which the said municipality may construct and maintain after the passing of this Act.

(2) In the event of the councils of the said county and municipality respectively being unable to agree upon the share or percentage which the said county council shall contribute for the purposes aforesaid, or as to the cost or character of any such bridge, the matters in dispute shall be referred to arbitration under the provisions of this Act respecting arbitrations.

(3) The county council shall pay to such local municipality any sum or sums settled by agreement or fixed by arbitration for the purposes aforesaid, in such manner and at such times as may be provided by the agreement or directed by the award.

(4) Or, where such application has been made by a local municipality, the county council may assume any such bridge or bridges, and in such case, in the event of the councils of the county and municipality respectively being unable to agree upon the share or percentage which the local municipality shall contribute towards such construction and maintenance, or as to the character and cost of the bridge or bridges which the county council proposes to construct and maintain, the matters in dispute shall be referred to arbitration under the provisions of this Act respecting arbitrations.

(5) The county council may require from the local municipality a statement of the kind, character and cost of any bridge or bridges of the length aforesaid proposed to be erected by the said local municipality, and the plans and specifications thereof; or when the county council has assumed such bridge or bridges, the local municipality shall be entitled to the same information from the county council.

(6) Where the arbitration is upon a claim of a local municipality for contribution by the county, the arbitrators shall amongst other matters take into consideration the population and assessed values of the several municipalities of the county and also the average tax imposed by such municipalities during at least the ten years next preceding that in which the application is made, for the construction and maintenance of bridges, the necessity of other municipalities in respect of bridges, and the difference during the said ten years between the average tax imposed by the other municipalities and the applying local municipality for the purposes aforesaid. They shall also consider whether the applying local municipality receives any special or particular benefit by reason of the rivers or streams passing through, or the lakes or ponds being situate therein, which the other municipalities of the county do not receive from like or similar causes. Where the county council has assumed the bridges and calls for a contribution from a local municipality, reference shall be had *mutatis mutandis*, and as far as applicable and as may be practicable to the corresponding facts and circumstances.

(7) The award in either case shall not name the specific sum which the one council shall pay to the other, unless the arbitrating municipalities otherwise agree, but shall determine the share or percentage of the cost of construction or maintenance of such bridge or bridges for which the council may be liable for the ten years after the award including the year in which the award is made, and for as much longer as the two corporations interested may by the submission or by any agreement determine. The arbitrator may, by said award, fix the time or times when any moneys, by the award made payable, shall be paid.

(8) This section shall not apply to any town separated from a county, and shall not come into force until the first of January, 1891.

(9) This section shall apply only,

(a) To bridges of the prescribed length, which have been or shall be constructed after the 7th day of April, 1890.

(b) To the maintenance of all bridges of the prescribed length after the said 7th day of April, 1890; and the word maintenance shall include reconstruction in whole or in part. 53 V. c. 50, s. 80. 55 V. c. 43, s. 49.

534. When a county council assumes, by by-law, any road or bridge within a township as a county road or bridge, the council shall, with as little delay as reasonably may be, and at the expense of the county, cause the road to be planked, gravelled or macadamized, or the bridge to be built in a good and substantial manner; and further the county council shall cause to be built and maintained in like manner, all bridges on any river or stream over 100 feet in width, within the limits of any incorporated village in the county, necessary to connect any main public highway leading through the county. 46 V. c. 18, s. 534; 50 V. c. 29, s. 35.

535.—(1) It shall be the duty of county councils to erect and maintain bridges over rivers forming or crossing boundary lines between two municipalities (other than in the case of a city or separated town) within the county; and in case of a bridge over a river forming or crossing a boundary line between two or more counties, or a county, city
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or separated town, such bridge shall be erected and maintained by the councils of the counties, or county, city and separated town respectively; and in case the councils fail to agree as to the respective portions of the expense to be borne by the municipalities interested, it shall be the duty of each to appoint arbitrators as provided by this Act, to determine the proportionate amount to be paid by each, and the award made shall be final.

(2) A road which lies wholly or partly between two municipalities shall be regarded as a boundary line within the meaning of this section, although such road may deviate so that it is in some place or places wholly within one of the municipalities, and a bridge built over a river crossing such road where it deviates as aforesaid shall be held to be a bridge over a river crossing a boundary line within the meaning of this section.

(3) Where a river or stream forms a boundary line between two or more municipalities within a county, it shall be the duty of the council of the county to keep such river or stream free from all accumulation of driftwood or fallen timber now or hereafter accumulated.

(4) In the case of any river or stream which forms a boundary line between two or more counties, or a county, city, or separated town, it shall be the duty of the councils of the county or counties, city and separated town respectively to keep such river or stream free from all accumulation of drifted or fallen timber now or hereafter accumulated; and in case the councils fail to agree as to the respective portion of the expense to be borne by the municipalities interested, the same shall be decided by arbitration under the provisions of this Act, and the award made shall be final.

(5) Notwithstanding anything contained in sections 532 and 535 and sub-sections thereof, the council of any county may, by by-law, provide that where the words "rivers, lakes and ponds" are mentioned in those sections and sub-sections as applying to the erection and maintenance of bridges over such rivers, lakes and ponds, where such rivers, lakes and ponds cross any boundary line between two municipalities within such county, they or either of them shall not include or extend to any river, lake or pond less than eighty feet in width.

- (a) In the event of the council of any county passing such by-law, then in such case the councils of the minor municipalities bordering upon such boundary line shall erect and maintain all bridges across streams of a less width than eighty feet over all such rivers, lakes and ponds crossing such boundary line. 48 V. c. 39, s. 22; 51 V. c. 28, s. 31, (3), (4); 52 V. c. 36, s. 28, (5), (a).

NOTE.—“Although such road may deviate so that in some place or places wholly within the municipality”—existing cases might be referred to where the local municipality *into which* the road deviates has always maintained and kept in repair the road and bridges thereon.

In such cases a reference to arbitration through the County, City or Town Council, or an action in the High Court of Justice would relieve the local municipality from responsibility and *quasi* illegal expenditure.

536. All township boundary lines not assumed by the county council shall be opened, maintained and improved by the township councils, except where it is necessary to erect or maintain bridges over rivers forming or crossing boundary lines between two municipalities.

(2) In the case of any township boundary line, or any portion of such line on which in the original survey thereof a road allowance has not been reserved, the council of any one of the municipalities bordering on such boundary line, may pass a by-law for acquiring the necessary land, either by purchase or expropriation, within such municipality for one-half of the required road allowance.

- (a) The clerk of the municipality shall within four days after the passing of the by-law, send by registered letter a copy of the by-law to the clerk of the adjoining municipality.

(3) Sections 539 and 540 of this Act shall apply to proceedings taken under the provisions of this section.

(4) If the matters in dispute between the two municipalities are referred to arbitration the arbitrators shall have power to decide upon the proportion of the cost of the land which will be required upon each side of such boundary line for a road allowance which shall be borne by each municipality, and shall also have power to decide whether a road allowance shall be laid out or not.

(5) If the arbitrators decide against the laying out of a road allowance upon such boundary line or any portion of such line, then no further proceedings shall be taken for the period of two years or such further time as the arbitrators may determine upon, but not exceeding four years in all. 46 V. c. 18, s. 536; 53 V. c. 50, s. 31, (2), (3), (4), (5).

537. Township boundary lines forming also the county boundary lines, and not assumed or maintained by the respective counties interested, shall be maintained by the respective townships bordering on the same, except where it is necessary to erect or maintain bridges over rivers forming or crossing boundary lines between two municipalities. 46 V. c. 18, s. 537.

538. In case a road lies wholly or partly between a county, city, town, township and incorporated village, and an adjoining county or counties, city, town, township or incorporated village, the councils of the municipalities between which the road lies shall have joint jurisdiction over the same although the road may so deviate as in some places to be wholly or in part within one or either of them; and the word road shall not include a bridge over a river forming or crossing the boundary line between two municipalities, other than counties, which bridge it is the duty of the county council to erect and maintain. 46 V. c. 18, s. 538. 55 V. c. 48, s. 50.

539. No by-law of the council of any one of such municipalities with respect to such last mentioned road or bridge, shall have any force until a by-law has been passed in similar terms, as nearly as may be, by the other council or councils having joint jurisdiction in the premises. 46 V. c. 18, s. 539.

540. In case the other council, or councils, for six months after notice of the by-law, omit to pass a by-law or by-laws in similar terms, the duty and liabilities of each

municipality in respect to the road or bridge shall be referred to arbitration under the provision of this Act. 46 V. c. 18, s. 540.

541. All powers, duties and liabilities which at any time before the 1st day of January, 1850, belonged to the magistrates in Quarter Sessions, with respect to any particular road or bridge in a county, and are not conferred or imposed upon any other municipal corporation, shall belong to the council of the county, or in case the road or bridge lies in two or more counties, to the councils of such counties; and the neglect and disobedience of any regulations or directions made by such council or councils shall subject the offenders to the same penalties and other consequences as the neglect or disobedience of the like regulations of the magistrates would have subjected them to. 46 V. c. 18, s. 541.

542. No council shall interfere with any public road or bridge vested as a Provincial work in Her Majesty, or in any public department or board, and the Lieutenant-Governor shall by order in Council have the same powers as to such road and bridge as are by this Act conferred on municipal councils with respect to other roads and bridges; but the Lieutenant-Governor may, by proclamation, declare any public road or bridge, under the control of the Commissioner of Public Works, to be no longer under his control, and in that case after a day named in the proclamation, the road or bridge shall cease to be under the control of the Commissioner, and no tolls shall be thereafter levied thereon by him, and the road or bridge shall thenceforth be controlled and kept in repair by the council of the municipality. 46 V. c. 18, s. 542.

543. No council shall pass a by-law —

1. For stopping up or altering the direction or alignment of any street, lane or thoroughfare made or laid out by Her Majesty's Ordinance, or the Principal Secretary of State in whom the Ordinance Estates became vested under the Statute of the Province of Canada passed in the 19th year of Her Majesty's reign, chapter 45, or the Consolidated Statute of Canada, chapter 24, respecting the Ordinance and Admiralty lands, or by the Dominion of Canada; or

2. For opening any such communication through any lands held by the Dominion of Canada; or

8. Interfering with any bridge, wharf, dock, quay or other work vested in the Dominion of Canada ; or

4. Interfering with any land reserved for military purposes, or with the integrity of the public defences,—

without the consent of the Government of the Dominion of Canada ; and a by-law for any of the purposes aforesaid shall be void unless it recites such consent. 46 V. c. 18, s. 543.

544.—(1) No council shall close up any public road or highway, whether an original allowance or a road opened by the Quarter Sessions or any municipal council, or otherwise legally established, whereby any person will be excluded from ingress and egress to and from his lands or place of residence over such road, unless the council, in addition to compensation, also provides for the use of such person some other convenient road or way of access to the said lands or residence. 46 V. c. 18, s. 544.

(2) If the compensation offered by the council, to the owner of the lands, or the road provided for the owner in lieu of the original road, as a means of egress and ingress, is not mutually agreed upon between the council and the owner or owners, (as the case may be), then in such case, the matters in dispute shall be referred to arbitration, under the provisions of this Act respecting arbitration. 49 V. c. 37, s. 15.

545. No council except the council of a city or town shall lay out any road or street more than 100 nor less than 66 feet in width, except where an existing road or street is widened, or unless with the permission of the council of the county in which the municipality is situate ; but any road when altered, may be of the same width as formerly, and no highway or street shall be laid out by any owner of land of a less width than 66 feet, without the consent of the council of the municipality. 46 V. c. 18, s. 545 ; 52 V. c. 36, s. 29.

546. No council shall pass a by-law for stopping up, altering, widening, diverting or selling any original allowance for road, or for establishing, opening, stopping up, altering, widening, diverting or selling any other public highway, road, street or lane ;

1. Until written or printed notices of the intended by-law have been posted up one month previously in six of the most public places in the immediate neighborhood of such original allowance for road, street or other highway, road, street or lane;

2. And published weekly for at least four successive weeks in some newspaper (if there be any) published in the municipality; or if there be no such newspaper, then in a newspaper published in some neighbouring municipality; and, in either case, in the county town, if any such there be; where no such newspaper is published in the municipality or in a neighbouring municipality;

3. Nor until the council has heard, in person or by counsel or solicitor, any one whose land might be prejudicially affected thereby, and who petitions to be so heard;

4. And the clerk shall give such notices at the request of the applicant for the by-law, upon payment of the reasonable expenses attendant on such notices. 46 V. c. 18, s. 546.

5. In case the council of a township or an incorporated village, and property owners interested in lands required to be taken possession of, for establishing a public road, mutually agree as to the recompense or price of such lands, the council may accept a deed or deeds for the same, which shall be registered as provided by section 547 of this Act, and in such case the publication of any by-law in the manner required by sub-section 2 shall be dispensed with. 50 V. c. 29, s. 37.

NOTE.—This may be termed the *pivot section* about which revolves all the enactments relating to or affecting public roads. Under its provisions the first alarm is given by which the owner or occupant of lands adjoining a public highway becomes aware that his rights are to be interfered with by the closing of a road or some burdensome taxation imposed on him to meet the expense of establishing and maintaining a road that might be of little practical use to the community at large.

"Written or printed notices of the intended by-law" must be posted up one month previously in six of the most public places in the immediate neighbourhood."

It is not intended that any Council shall interfere with a public road, unless with the full concurrence of all those interested therein, for, next to freedom of the person, the Legislature preserves sacred to the people the right of transit from place to place over the public roads of the Province; *"and published weekly for at least four successive weeks in some newspaper."* Not only must the notices be posted up where they are most likely to be seen, but lest they might be destroyed or overlooked the precaution is taken of having the notice published in such newspaper as will be most likely to have a circulation in the locality where the road under consideration is situated. Again, the right is reserved to any person *"whose land might be prejudicially affected"* to be heard before the Council, when a full and free discussion of the whole matter may be had, and in case the Council should ignore the protest of the person or persons so appearing and determine upon passing the intended by-law, recourse may be had to the Courts for further adjudication. Frequent reference is made to the foregoing section, in this and other Acts, indicating that in all proceedings affecting the right of transit over the public roads the provisions of this section must be observed. See ss. 526, 550, 566, 567, 568, also the Railway, Streets and Drains Act, R. S. O. 1887, c. 199, ss. 9, 82, and the Street Railway Act, R. S. O. 1887, c. 171, s. 17.

547.—(1) Every by-law passed since the 29th day of March, 1878, or hereafter to be passed by any municipal council, under the authority of which any street, road or highway has been, or is, opened upon any private property, shall, before the same becomes effectual in law, be duly registered in the registry office of the registry division in

which the land is situate; and for the purpose of registration a duplicate original of the by-law shall be made out, certified under the hand of the clerk and the seal of the municipality, and shall be registered without any further proof.

(2) Every by-law passed before the said day and every order and resolution of the Quarter or General Sessions, passed before said day, under the authority of which any street, road or highway has already been opened upon any private property, may, at the election of any party interested, and at the cost and charges of such party or municipality, be also duly registered, upon the production, to the registrar, of a duly certified copy of the by-law under the hand of the clerk of the municipality and the seal of the municipality, or by a duly certified copy of such order or resolution of the Quarter of General Sessions, given under the hand of the clerk of the peace, as the case may be. 46 V. c. 18, s. 547. *See also* Cap. 114, s. 75.

548. In case of disputes in any municipality concerning roads, allowances for roads, side lines, boundaries or concessions, within the cognizance of and in the course of investigation before a municipal council, the head of the council may administer an oath or affirmation to any party or witness examined upon the matters in dispute. 46 V. c. 18, s. 548.

549.—(1) In case any municipality in whose jurisdiction an original road, or allowance for road is situate, shall open that which they take and believe to be the true site of the same, and in case the municipality, their officers and servants, shall act in good faith, and shall take all reasonable means to inform themselves of the correctness of their line and work, and in case it appears that the road being opened, although not or not altogether upon the true line of the original road, or allowance for road, is nevertheless, from any difficulty in discovering correctly the true line, as near to, or as nearly upon the true line as under the circumstances could then be ascertained, no action shall be brought by any person against the municipality, their officers or servants, for or in respect of the opening of such road, or allowance for road, or for any other act or matter whatsoever connected with or arising from the same.

(2) The municipality shall, however, in any case respecting the opening of an original road, or road allowance,

make to any person having title to or interest in the same, reasonable compensation in full of all claims, and as a final settlement of the same: Provided the claims for such compensation shall be made within one year from the time of the laying out or taking possession of such road by the municipality or its officers, or the part thereof in respect of which compensation is claimed, and in the event of the parties not agreeing as to the amount or terms of such compensation, the same shall be ascertained and the payment thereof enforced, under the provisions of this Act relating to arbitrations. 46 V. c. 18, s. 549.

POWERS OF COUNTIES, TOWNSHIPS, CITIES, TOWNS AND INCORPORATED VILLAGES IN RELATION TO ROADS AND BRIDGES.

550. The council of every county, township, city, town and incorporated village may pass by-laws—

1. For opening, making, preserving, improving, repairing, widening, altering, diverting or stopping up roads, streets, squares, alleys, lanes, bridges, or other public communications within the jurisdiction of the council, and for entering upon, breaking up, taking or using any land in any way necessary or convenient for the said purposes, subject to the restrictions in this Act contained; for setting apart and laying out such portions of any such roads, streets, squares, alleys, lanes, bridges or other communications, as the council may deem necessary or expedient for the purposes of carriage ways, boulevards and sidewalks, or for the improvement or beautifying of the same; and for preventing and removing any obstruction upon any roads or bridges within its jurisdiction, and also for permitting sub-ways for cattle under any highway;

2. For establishing, opening, making, preserving, improving, maintaining, widening, enlarging, altering, diverting or stopping up, within the limits of the municipality, any highway through, over, across, under, along, or upon the railway and lands of any railway company, and for entering upon, breaking up, taking or using any such land in any way necessary or convenient for the said purpose; but subject to the provisions contained in *The Railway Streets and Drains Act*, and provided that the highway is within the jurisdiction of the council;

(2a) For straightening, deepening, widening, or diverting any river, creek or stream, for the purpose of preventing the flooding, undermining or carrying away of any land, or for preventing injury to any highway, bridge or other structure by the flow of the waters of any such river, creek or stream, subject to all the provisions of this Act respecting compensation for lands taken or injured, but nothing herein shall authorize the interference with any mill site or water privilege on any such river, creek or stream. 52 V. c. 86, s. 80, (2a).

3. For raising money by toll on any bridge, road or other work, to defray the expense of making or repairing the same;

4. For making regulations as to pits, precipices and deep waters, and other places dangerous to travellers;

5. For granting to any person, in consideration or part consideration of planking, gravelling or macadamizing a road, or of building a bridge, the tolls fixed by by-law to be levied on the work for a period of not more than twenty-one years after the work has been completed, and after such completion has been declared by a by-law of the council authorizing tolls to be collected; and the grantee of the tolls shall, during the period of his right thereto, maintain the road or bridge in repair;

6. For preserving or selling timber, trees, stone, sand or gravel, on any allowance or appropriation for a public road; but this shall be subject to the provisions of *The Act Respecting Timber on Public Lands* relative to Government road allowances and the granting of Crown timber licenses;

7. For regulating the manner of granting to road or bridge companies permission to commence or proceed with roads or bridges within its jurisdiction, and for regulating the manner of ascertaining and declaring the completion of the work, so as to entitle such companies to levy tolls thereon, and for regulating the manner of making the examinations necessary for the proper exercise of these powers by the council.

(7a) For purchasing and holding by itself or jointly with any other municipality such land containing stone or gravel beds within its own or any adjoining municipality as may be necessary to procure stone or gravel therefrom for the

purpose of constructing, maintaining or repairing any streets, roads or highways owned by such municipality, and sell and convey the same wherever the object for which the same was purchased shall no longer exist. 46 V. c. 18, s. 550 (1-7). See Cap. 159. 52 V. c. 36, s. 30, 2a. 54 V. c. 42, s. 25 (7a).

8. For searching for and taking such timber, gravel, stone, or other material or materials (within the municipality) as may be necessary for keeping in repair any road or highway within the municipality; and, for the purpose aforesaid, with the consent of the council of an adjoining municipality (by resolution expressed), for searching for and taking gravel within the limits of such adjoining municipality; and the right of entry upon such lands, as well as the price or damage to be paid to any person for such timber or materials, shall, if not agreed upon by the parties concerned, be settled by arbitration under the provisions of this Act;

- (a) But no such gravel shall be taken or removed from the premises of any person in an adjoining municipality until the price or damage has been agreed upon between the parties, or settled by arbitration. 48 V. c. 39, s. 23.

9. For selling the original road allowance, to the parties next adjoining whose lands the same is situated, when a public road has been opened in lieu of the original road allowance, and for the site or line of which compensation has been paid, and for selling, in like manner, to the owners of any adjoining land, any road legally stopped up or altered by the council; and in case such parties respectively refuse to become the purchasers at such price as the council thinks reasonable, then for the sale thereof to any other person for the same or a greater price. 46 V. c. 18, s. 550 (9).

551.—(1) In case any one in possession of a concession road or side line has laid out and opened a road or street in place thereof without receiving compensation therefor, or in case a new or travelled public road has been laid out and opened in lieu of an original allowance for road, and for which no compensation has been paid to the owner of the land appropriated as a public road in place of such original allowance, the owner, if his lands adjoin the concession road, side line, or original allowance, shall be entitled

thereto, in lieu of the road so laid out, and the council of the municipality, upon the report in writing of its surveyor, or of a deputy provincial land surveyor, that such new or travelled road is sufficient for the purposes of a public highway, may convey the said original allowance for road, in fee simple, to the person or persons upon whose land the new road runs.

(2) When such original road allowance is, in the opinion of the council, useless to the public, and lies between lands owned by different parties, the municipal council may, subject to the conditions aforesaid, sell and convey a part thereof to each of such parties, as may seem just and reasonable; and in case compensation was not paid for the new road, and the person through whose land the same passes does not own the land adjoining the original road allowance, the amount received from the purchaser of the corresponding part of the road allowance when sold shall be paid to the person who at the time of the sale owns the land through which the new road passes. 46 V. c. 18, s. 551.

552. In case a person is in possession of any part of a government allowance for road, laid out adjoining his lot and enclosed by a lawful fence, and which has not been opened for public use by reason of another road being used in lieu thereof, or is in possession of any government allowance for road parallel or near to which a road has been established by law in lieu thereof, such person shall be deemed legally possessed thereof, as against any private person, until a by-law for opening such allowance for road has been passed by the council having jurisdiction over the same. 46 V. c. 18, s. 552.

553. No such by-law shall be passed until notice in writing has been given to the person in possession, at least eight days before the meeting of the council, that an application will be made for opening such allowance. 46 V. c. 18, s. 553.

554. The council of any municipality may pass by-laws for granting aid to any adjoining municipality in making, opening, maintaining, widening, raising, lowering, or otherwise improving any highway, road, street, bridge, or communication passing from or through an adjoining municipality. 46 V. c. 18, s. 554.

POWERS OF TOWNSHIPS, CITIES, TOWNS, AND VILLAGES IN
RELATION TO ROADS AND BRIDGES.

555. The council of every township, city, town and incorporated village may pass by-laws—

1. For granting to the county or united counties in which such municipality lies, aid, by loan, or otherwise, towards opening or making any new road or bridge on the bounds of such municipality;

2. For entering into and performing any arrangement with any other council in the same county, or united counties for executing, at their joint expense and for their joint benefit, any work within the jurisdiction of the council.

(3) Whenever a public street, square or drive forms the boundary between any two or more municipalities, (although such street, square or drive is wholly within the limits of one of such municipalities or partly in each), the councils of such municipalities may make and enter into any agreements and pass any by-laws proper and necessary to provide for the construction and maintenance of any one or more of the street improvements or works, and the performance of any one or more of the street services for which provision is made in this Act in sections 612 to 629, both inclusive, and every such council may pass by-laws for ascertaining, determining and raising so much of the cost of any such work, improvement or service as is to be borne by the municipality generally, and for determining the proportion thereof to be assessed and levied upon the real property benefited thereby, and for assessing and levying upon the real property so benefited and situate within its jurisdiction, and for collecting the proportion or share of the cost of any such improvement, work or service done under any such agreement by the municipality, in the same manner and with the like remedies as if the improvement had been made or work had been done or service had been rendered upon or in a street within the municipality and as if the cost thereof was assessable upon real property.

the whole of which was situate in the same municipality. 46 V. c. 18, s. 555; 52 V. c. 86, s. 31, (3).

556. Whenever township councils fail to maintain township boundary lines not assumed by the county council, in the same way as other township roads, by mutual agreement as to the share to be borne by each, it shall be competent for one or more of such councils to apply to the county council to enforce joint action on all township councils interested. 46 V. c. 18, s. 556.

557. In cases where all the township councils interested neglect or refuse to open up and repair such lines of road in a manner similar to the other local roads, it shall be competent for a majority of the ratepayers resident on the lots bordering on either or both sides of such line, to petition the county council to enforce the opening up or repair of such lines of road by the township councils interested. 46 V. c. 18, s. 557.

558. A county council receiving such petition either from township councils or from ratepayers, as in the preceding section mentioned, may consider and act upon the same at the session at which the petition is presented. 46 V. c. 18, s. 558.

559. The county council may determine upon the amount which each township council interested shall be required to apply for the opening or repairing of such lines of road, or to direct the expenditure of a certain portion of the statute labour, or both, as may seem necessary to make the said lines of road equal to other roads. 46 V. c. 18, s. 559.

560. It shall be the duty of the county council to appoint a commissioner or commissioners to execute and enforce their orders or by-laws relative to such roads. If the representatives of any or all of the townships interested intimate to the council or to the commissioner or commissioners so appointed, their intention to execute the work themselves, then the commissioner or commissioners shall delay proceedings for a reasonable time; but if the work is not proceeded with during the favourable season by the township officers, then the commissioners shall undertake and finish it themselves. 46 V. c. 18, s. 560.

561. Any sum of money so determined upon by the county council, as the portion to be paid by the respective townships shall be paid by the county treasurer on the order of the commissioner or commissioners, and the amount retained out of any money in his hands belonging to such township; but if there are not, at any time before the striking of a county rate, any such moneys belonging to such township in the treasurer's hands, an additional rate shall be levied by the county council against such township sufficient to cover such advances. 46 V. c. 18, s. 561.

562. Whenever the several townships interested in the whole or part of any county boundary line road are unable mutually to agree as to their joint action in opening or maintaining such line road, or portion thereof, one or more of such township councils may apply to the wardens of the bordering counties to determine jointly the amount which each township shall be required to expend, either in money or statute labour, or both, and the mode of expenditure, on such road; the County Judge of the County in which the township first making the application is situate, shall in all cases be the third arbitrator. 46 V. c. 18, s. 562.

563. It shall be the duty of the wardens of the counties interested to meet within twenty-one days from the time of receiving such application for the determination of the matter in dispute. The warden of the county in which the township first making the application is situated, shall be the convener of the meeting; and it shall be his duty to notify the warden of the other county and County Judge of the time and place of meeting within eight days of the time of his receiving such application. 46 V. c. 18, s. 563.

564. At such meeting the wardens and County Judge, or any two of them, shall determine on the share to be borne by the respective townships, of the amount required on the part or parts to be opened or repaired by each or both, and shall appoint a commissioner or commissioners to superintend such work, and it shall be the duty of the township treasurer to pay the orders of the commissioners to the extent of the sum apportioned to each; and pathmasters controlling the statute labour on the lots adjoining such line, on the portion of such line to be opened or repaired, shall obey the orders of the commissioner or commissioners in performing the statute labour unexpended. 46 V. c. 18, s. 564.

POWERS OF COUNTY AND TOWNSHIP COUNCILS IN RELATION TO ROADS.

565.—(1) The corporation of any township or county, wherever minerals are found, may sell or lease, by public auction or otherwise, the right to take minerals found upon, or under any roads over which the township or county may have jurisdiction, if considered expedient so to do.

(2) No such sale or lease shall take place until after due notice of the intended by-law has been posted up in six of the most public places in the immediate neighbourhood of such road, for at least one month previous to the time fixed for considering the by-law.

(8) The deed or conveyance or lease to the purchaser or lessee under the by-law, shall contain a proviso protecting the road for public travel, and preventing any uses of the granted rights interfering with public travel. 46 V. c. 18, s. 567.

POWERS OF COUNTY COUNCILS IN RELATION TO ROADS AND BRIDGES.

566. The council of every county shall have power to pass by-laws for the following purposes :

1. For stopping up, or stopping up and sale, of any original allowance for roads or parts thereof within the county, which is subject to the sole jurisdiction and control of the council, and not being within the limits of any village, town or city within or adjoining the county ; but the by-law for this purpose shall be subject to section 546 of this Act ;

2. For opening, making, preserving, improving, repairing, widening, altering, diverting and stopping up roads, streets, squares, alleys, lanes, bridges or other public communications, running or being within one or more townships, or between two or more townships of the county ; or any bridge required to be built or made across any river over 100 feet in width within any incorporated village in the county connecting any public highway leading through the county, and which is in continuation of a county road, or between the county and any adjoining county or city or

separated town, or on the bounds of any town or incorporated village, within the boundaries of the county, as the interests of the inhabitants of the county, in the opinion of the council, require to be so opened, made, preserved and improved; and for entering upon, breaking up, taking or using any land in any way necessary or convenient for the said purposes, subject to the restrictions herein contained; 46 V. c. 18, s. 565 (1, 2).

3. For directing that, on each and either side of a highway, under the jurisdiction of the council, passing through a wood, the trees (unless such as are reserved by the owner for ornament or shelter) shall, for a space not exceeding twenty-five feet on each side of the highway, be cut down and removed by the proprietor, within a time appointed by the by-law, or, in his default, by the county surveyor or other officer in whose division the land lies; and in the latter case, for authorizing the trees to be used by the overseer or other officer for any purpose connected with the improvement of the highways and bridges in his division, or to be sold by him to defray the expenses of carrying the by-law into effect; and the council may further pay such expenses out of county funds;

4. For providing for the making and keeping open of double tracks in snow roads, according to the provisions of *The Act Respecting Double Tracks in Snow Roads*;

5. For granting to any town, township or incorporated village in the county, aid, by loan or otherwise, towards opening or making any new road or bridge in the town, township or village, in cases where the council deems the county at large sufficiently interested in the work to justify such assistance, but not sufficiently interested to justify the council in at once assuming the same as a county work, and also for guaranteeing the debentures of any municipality within the county, as the council may deem expedient;

6. For requiring that the whole or any part of a county road within any local municipality shall be opened, improved and maintained by such local municipality: 46 V. c. 18, s. 565 (3-6).

7. For abandoning or otherwise disposing of the whole or any portion of a toll or any other road owned by a county, whether situated wholly within the county or partly

within the county and partly within an adjoining county or counties, and on the passing of such by-law the clerk shall forthwith forward a certified copy thereof to the local municipality or municipalities through or along which any portion of said abandoned road shall run or border upon : Provided, however, that no such by-law shall take effect until assented to by the local municipality or municipalities affected, or until the same shall have been approved by the Lieutenant-Governor in Council. 48 V. c. 89, s. 24; 49 V. c. 87, s. 18; 53 V. c. 50, s. 82.

POWERS OF TOWNSHIP COUNCILS IN RELATION TO ROADS AND BRIDGES.

567. The council of every township may pass by-laws—

1. For granting to any adjoining county, aid in making, opening, maintaining, widening, raising, lowering or otherwise improving any highway, road, street, bridge or communication lying between the township and any other municipality, and for granting like aid, to the county in which the township lies, in respect of any highway, road, street, bridge, or communication, within the township, assumed by the county as a county work, or agreed to be so assumed on condition of such grant ;

2. For the stopping up, leasing or sale of any original allowance for road, or any part thereof, within the municipality, and for fixing and declaring therein, the terms upon which the same is to be leased, sold and conveyed ;

But no such by-law shall have any force—

(a) Unless passed in accordance with section 546 of this Act, nor

(b) Until confirmed by a by-law of the council of the county in which the township is situate, at an ordinary session of the county council, held not sooner than three months nor later than one year next after the passing thereof ;

3. For directing that, on each or either side of a highway, under the jurisdiction of the council, passing through a wood, the trees (unless such as are reserved by the owner

for ornament or shelter) shall, for a space not exceeding twenty-five feet on each side of the highway, be cut down and removed by the proprietor within a time appointed by the by-law, or, on his default, by the overseer of highways, or other officer in whose division the land lies; and, in the latter case, for authorizing the trees to be used by the overseer or other officer for any purpose connected with the improvement of the highways and bridges in his division, or to be sold by him to defray the expenses of carrying the by-law into effect; and the council may grant, out of township funds, any money that may be necessary to pay for cutting down and removing such trees;

4 For setting apart so much of any highway as the council may deem necessary for the purposes of a footpath, and for imposing penalties on persons travelling thereon on horseback or in vehicles. 46 V. c. 18, s. 566.

568.—(1) In case the trustees of any police village, or fifteen of the inhabitant householders of any other unincorporated village or hamlet consisting of not less than twenty dwelling houses standing within an area of 200 acres, petition the council of the township in which the village or hamlet is situate, and in case the petition of such unincorporated village or hamlet, not being a police village, is accompanied by a certificate from the registrar of the registry division within which the township lies, that a plan of the village or hamlet has been duly deposited in his office according to the registry laws, the council may pass a by-law to stop-up, sell and convey, or otherwise deal with any original allowance for road lying within the limits of the village or hamlet, as the same shall be laid down on the plan, but subject to all the restrictions contained in this Act with reference to the sale of original allowances.

(2) The preceding sub-section shall apply to a village or hamlet situate in two townships, whether such townships are in the same or different counties, and in such case the council of each of the townships shall have the power thereby conferred as to any original allowance for road lying within that part of the village or hamlet which, according to the registered plan, is situate within such township. 46 V. c. 18, ss. 568, 569.

POWERS OF MUNICIPAL COUNCILS AS TO DRAIN-
AGE AND OTHER IMPROVEMENTS PAID FOR
BY LOCAL RATE.

LOCAL IMPROVEMENTS IN TOWNSHIPS, CITIES, TOWNS AND
VILLAGES.

569. In case the majority in number of the persons, as shewn by the last revised assessment roll, to be the owners (whether resident or non-resident) of the property to be benefited in any part of any township, city, town or incorporated village, petition the council for the deepening or straightening of any stream, creek, or water-course, or for draining of the property (describing it), or for the removal of any obstruction which prevents the free flow of the waters of any stream, creek or water-course, as aforesaid, or for the lowering of any waters of the lake or pond, for the purpose of reclaiming flooded land or more easily draining any lands, the council may procure an engineer or provincial land surveyor to make an examination of the stream, creek or water-course proposed to be deepened or straightened, or from which it is proposed to remove obstructions, or of the lake or pond, the waters of which it is proposed to lower, or of the locality proposed to be drained, and may procure plans and estimates to be made of the work by such engineer or surveyor, and an assessment to be made by such engineer or surveyor of the real property to be benefited by such work, stating as nearly as may be, in the opinion of such engineer or surveyor the proportion of benefit to be derived therefrom by every road and lot, or portion of lot; and if the council is of opinion that the proposed work, or a portion thereof, would be desirable, the council may pass by-laws;

1. For providing for the proposed work, or a portion thereof, being done, as the case may be. 46 V. c. 18, s. 570 (1).

(2) For borrowing on the credit of the municipality the funds necessary for the work or the proportion to be contributed by the initiating municipality when the same is to be constructed at the expense of two or more municipalities and for issuing the debentures of the municipality to the

requisite amount, including the costs of reference, if any, in sums of not less than \$100 each and payable within twenty years from date, with interest at a rate of not less than four per centum per annum. 55 V. c. 43, s. 52 (1a).

- (a) Any council issuing debentures under the provisions of this section may include the interest on the debentures in the amount payable, in lieu of the interest being payable annually in respect of each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest shall be taken to authorize the issue of debentures, in accordance with this sub-section, to the same amount with interest added, if the council, by subsequent resolution, direct the treasurer to issue debentures in accordance with this section, as aforesaid; 46 V. c. 18, s. 570 (2); 49 V. c. 37, s. 20; 50 V. c. 6, s. 1.

3. For assessing and levying in the same manner as taxes are levied, upon the real property to be benefited by the work, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing and levying the same as other taxes are levied by an assessment and rate on the real property so benefited (including roads held by joint stock companies or private individuals and including roads held by counties or county councils), in proportion, as nearly as may be, to the benefit derived by each lot or portion of lot and road in the locality;

- (a) The cost of any arbitration held in connection with the construction of any works under this section, the cost of the publication of by-laws, and all other expenses incidental to the construction of the works and the passing of the by-laws shall be deemed part of the cost of such works, and included in the amount to be raised by local rate;
- (b) Any person whose property has been assessed for such work may pay the amount of such assessment, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionably reduced; and

- (c) Any agreement on the part of any tenant to pay the rates or taxes of the demised property shall not apply to or include the charges or assessments for any works under this section, unless such agreement in express terms mentions or refers to such charges or assessments, and as payable in respect of drainage works; but in cases of contracts of purchase or of leases giving the lessee a right of purchase, the said charges or assessments shall be added to the price, and shall be paid (as the case may be) by the purchaser, or by the lessee in case he exercises such right of purchase;
4. For regulating the times and manner in which the assessment shall be paid;
5. For determining what real property will be benefited by the works, and the proportion in which the assessment should be made on the various portions of land so benefited, and subject in every case of complaint by the owner or person interested in any property assessed, (whether of overcharge, or undercharge of any other property assessed, or that property which should be assessed has been wrongfully omitted to be assessed,) to proceedings for trial of such complaint and appeal therefrom, in like manner, as nearly as may be, as on proceedings for the trial of complaints to the Court of Revision under *The Assessment Act*;
6. The engineer or surveyor in assessing the real property to be benefited by any works to be executed under this section, need not confine his assessment to the part of a lot actually drained, but, in order that the portion to be rated may be conveniently ascertained, may make such assessment on the whole lot, or on the half, quarter, or other described part of the lot, if the person owning the part actually drained owns the whole lot, or owns such half, quarter, or other described part of the lot;
7. The proportion of benefit to be derived from any works, by different parcels of land or roads may be shewn by the engineer or surveyor by placing sums of money opposite such parcels and roads, and it shall not be deemed to have been necessary to state the fraction of the cost to be borne by each parcel or road;
- (7a.) Any engineer or surveyor employed or appointed by any council to perform the work provided for by section

569, or any work under any of the drainage clauses of this Act, involving the assessment of real property for the purposes of drainage, shall before entering upon his duties take and subscribe the following oath (or affirmation) before the clerk of the municipality, a justice of the peace or a commissioner for taking affidavits, and shall leave the same with the clerk of the municipality :—

In the matter of the proposed drainage (or as the case may be) in the township (or as the case may be),

I of the of
in the county of (engineer or surveyor) make
oath and say (or solemnly declare and affirm) that I will to
the best of my skill, knowledge, judgment and ability hon-
estly and faithfully and without fear, favour or prejudice
against any owner or owners, perform the work assigned to
me in connection with the above work and make a true
report thereon.

Sworn (or solemnly declared
and affirmed) before me at
the of
in the county of
this day of
A.D., 189 .

8. The council shall have the like power, and the provisions of this section shall apply in cases where the work can be effectually accomplished only by embanking, pumping or other mechanical operations, but in such cases the council shall not proceed except upon the petition of two-thirds of the owners above mentioned in this section. 46 V. c. 18, s. 570 (2, *part*, 3-8); 55 V. c. 43, s. 53.

9. In cases provided for in the next preceding sub-section, the council may pass by-laws for assessing and defraying the annual cost of maintaining the necessary works upon the lands and roads to be benefited thereby, according to the provisions of this Act; and may do all things necessary, and pass all requisite and proper by-laws, and enter into all proper contracts for maintaining and giving full effect to said works; and all the provisions of this and the following sections to section 632 inclusive, shall be applicable, so far as possible to the draining of lands under sub-section 8 of this section; except that the council of the municipality may, on the petition of two-thirds of the

owners appearing by the last revised assessment roll to be assessed for work mentioned in said sub-section, pass a by-law relieving the municipality from all liability under the provisions of section 586; and after such last mentioned by-law shall have been passed, the provisions of said section 586 shall not apply to any of the works mentioned in said sub-section and set forth and designated in said last mentioned by-law; 46 V. c. 18, s. 570 (9); 49 V. c. 37, s. 21.

10. Trial of such complaints shall be had in the first instance by and before the Court of Revision of the municipality in which the lands or roads lie, which Court the council shall, from time to time as the occasion may require, hold on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, notice of which shall be published with the by-law during the first three weeks of its publication; and all notices of appeal shall be served upon the clerk of the municipality at least eight days prior to such Court of Revision; but the Court of Revision may though such notice be not given permit the appeal to be heard on such conditions as to giving notice to all persons interested and otherwise as may seem just; 46 V. c. 18, s. 570 (10); 50 V. c. 29, s. 38.

11. Such Court shall be constituted in the same manner and have the same power as Courts of Revision under *The Assessment Act*;

11a. In case of a lot or part of a lot being assessed for the construction or repair of a drain and the same property being afterwards assessed by the engineer, for the construction or repair of another drain, the court of revision or judge may take into consideration any prior assessment or assessments for drainage purposes on the same lands. 53 V. c. 50, s. 33.

12. In case of any such complaint, the clerk with whom the roll is deposited shall transmit to the Court of Revision a certified copy of so much of the said roll as relates to such municipality;

13. The appeal from the Court of Revision shall be to the Judge, or junior or acting Judge, of the County Court of the county within which such municipality is situate;

14. In case of appeal to the Judge, junior or acting Judge of the County Court, he shall have the same powers and duties and the clerk of the municipality shall have the same powers and duties, as nearly as may be, as they have respectively upon appeals from the Court of Revision under *The Assessment Act* ;

15. In case on any such complaint or appeal the assessment in respect of the property which is the subject of complaint or appeal ought to be varied, the court or judge shall adjourn the hearing of such appeal for a sufficient time to enable the clerk of the municipality to notify all persons to be effected personally or by registered letter of the date to which such hearing of the said complaint or appeal is adjourned, and the said clerk shall so notify all persons interested, and unless such interested parties appear and show cause, then the court or judge may, in its or his discretion vary the assessment of the said property and of the other lands and roads benefited as aforesaid, without further notice to the persons interested therein so as to do justice to all parties, so that the aggregate amount assessed shall be the same as if there had been no appeal ; and the Judge, or in case there is no appeal to the Judge, the Court of Revision, shall return the roll to the municipal clerk from whom it was received, and the assessors shall prepare and attest a roll in accordance with their original assessment as altered by such revision ; 53 V. c. 50, s. 84, amended.

16. The provisions of this section shall be deemed to extend to the re-execution or completion of any works which have been executed or have been partly or insufficiently executed under any provision of any Act of this Legislature, or of the Parliament of the Province of Canada, and to any works which it may be deemed expedient to dig, construct, or make for the purposes aforesaid, or any of them, provided that the stream, lake, or pond is, for the purposes hereof, within the jurisdiction of this Legislature ; 46 V. c. 18, s. 570 (11-16).

17. In order the better to maintain and operate works constructed under the provisions of sub-section 8 of this section, the council may pass by-laws appointing one or more commissioners from among those whose lands are assessed for the construction of such works, and the commissioners so appointed shall have full power to enter into all such necessary and proper contracts for the purchase of

fuel, repairs of buildings and machinery, and may do all other things necessary to facilitate the successful operation of such works as may be set forth in the by-law appointing such commissioners; 48 V. c. 39, s. 25

18. Where any obstruction within the meaning of the provisions of this section, is wholly situate or existing beyond the limits of the municipality, the same shall for all purposes, and with respect to every provision of this Act, be deemed and taken to be an obstruction, situate and existing partly within and partly without the limits of the municipality, and as if the proposed work or operations in connection therewith, or with the removal thereof, were to be done and performed in part within the limits of the municipality, and in part to be continued and extended beyond such limits, and all the provisions of this Act, shall be held and deemed to apply and operate accordingly;

19. Where such obstruction is occasioned by or is a dam or other artificial structure, the council shall be deemed to have full power to acquire with the consent of the owner thereof, and upon payment of such purchase money as may be mutually agreed upon, the right and title to remove the same, wholly or in part; and any amount so paid or payable as purchase money, shall be deemed part of the cost of the works under this section in connection with the removal of such obstruction, and shall be dealt with and provided for accordingly;

20. The two preceding sub-sections are to be taken as applying only to cases where the obstruction is actually situate or existing in a municipality next adjoining to the municipality mentioned in such sub-sections; 49 V. c. 37, s. 22.

21. To remove doubts it is hereby declared and enacted that where the obstruction referred to in this section is occasioned by, or is a dam or other artificial structure, and is situate wholly within the municipality, the council shall be deemed to have full power to acquire, with the consent of the owner thereof, and upon payment of such purchase money as may be mutually agreed upon, the right to remove the same, wholly or in part; and any amount so paid or payable as purchase money, shall be deemed part of the costs of the works under this section in connection with the removal of such obstruction, and shall be dealt with and provided for accordingly, and where the lands

benefited are situated partly in the said municipality, and partly in the next adjoining municipality, the special rate sufficient for the payment of the principal and interest of the debentures and the assessment and levying of the same shall be made, levied, and paid over by the said municipality, and the said next adjoining municipality, in such proportions as the said engineer or surveyor may determine and charge upon the lands aforesaid, and in like manner and to the same extent, as nearly as may be, as is provided for by this Act where the lands benefited are situated wholly within the municipality.

(22) Any person who has signed a petition under this section shall be at liberty to withdraw therefrom and to abandon such petition at any time before the expiry of the time limited for appealing from the proposed assessment to the court of revision, but not afterwards. If the proposed work shall not be proceeded with on account of such withdrawal from the petition, then the persons signing such petition including those who have withdrawn therefrom shall be *pro rata* chargeable with and liable to the municipality for the expenses incurred by such municipality in connection with such petition, and the amount with which such persons are chargeable shall be entered upon the collector's roll for such municipality against the person liable, and shall be collected in the same manner as any other sum so placed on the roll for collection. 50 V. c. 29, s. 54. 53 V. c. 50, s. 35 (22).

NOTE.—(1) Drainage works—upon petition of the majority of owners of property to be benefited by the improvements mentioned in section 569, the Council *may* procure an engineer or surveyor to make an examination, prepare and submit plans, estimates and assessment of such property and if the Council is of the opinion that such work is desirable, a by-law or by-laws *may* be passed for carrying into effect the prayer of the petition. The preliminary proceedings are:—(1) Petition of owners; (2) Report of Clerk as to the required majority; (3) Appointment of engineer or surveyor. It might prove more satisfactory to have a committee or commissioners appointed with the engineer or surveyor to

co-operate in furnishing to the Council reports under sub-sections 569-628 as to the advisability of undertaking the work or improvement ; (4) Submission of engineers report as to property to be benefited, together with plans and assessments therein. It will be observed that the petitioners must comprise a majority of the owners of the property to be benefited, no reference being made to the proportionate value of lands represented by the petitioners. The directions to the Council are not imperative; according to the opinion of the Council the work may or may not be undertaken. See note to section 9, *Re Incorporation*.

570.—The by-law shall, *mutatis mutandis*, be in the form or to the effect following :

A BY-LAW to provide for draining parts of (or, for the deepening of in, or as the case may be) the Township of , and for borrowing, on the credit of the Municipality, the sum of for completing the same.

Provisionally adopted the day of , A.D.

Whereas a majority in number of the owners, as shewn by the last revised assessment roll, of the property hereinafter set forth to be benefited by the drainage (or deepening, or as the case may be), have petitioned the Council of the said Township of , praying that (here set out the purport of the petition, describing generally the property to be benefited.)

And whereas, thereupon the said Council procured an examination to be made by , being a person competent for such purpose, of the said locality proposed to be drained (or the said stream, creek, or water-course proposed to be deepened, or as the case may be), and has also procured plans and estimates of the work to be made by the said and an assessment to be made by him of the real property to be benefited by such drainage (or deepening, or as the case may be), stating, as nearly as he can, the proportion of benefit which, in his opinion, will be derived in consequence of such drainage (or deepening, or as the case may be), by every road and lot, or portion of lot, the said assessment so made, being the assessment hereinafter by this by-law enacted to be assessed and levied upon the lots and parts of lots hereinafter in that behalf specially set forth and described, and the report of the said

in respect thereof, and of the said drainage (or deepening, or as the case may be), being as follows: (here set out the report of the Engineer or Surveyor employed.)

And whereas, the said Council are of opinion that the drainage of the locality described (or the deepening of such stream, creek or water-course, or as the case may be) is desirable :

Be it therefore enacted by the said Municipal Council of the said Township of , pursuant to the provisions of *The Municipal Act*.

1st. That the said report, plans and estimates be adopted, and the said drain (or deepening, or as the case may be) and the works connected therewith be made and constructed in accordance therewith.

2nd. That the Reeve of the said Township may borrow on the credit of the Corporation of the said Township of the sum of _____, being the funds necessary for the work, and may issue debentures of the Corporation to that amount, in sums of not less than \$100 each, and payable within _____ years from the date thereof, with interest at the rate of _____ per centum per annum, that is to say, in (insert the manner of payment, whether in annual payments or otherwise), such debentures to be payable at _____, and to have attached to them coupons for the payment of interest.

3rd. That for the purpose of paying the sum of \$475, being the amount charged against the said lands so to be benefited as aforesaid, other than lands (or roads, or lands and roads) belonging to the Municipality, and to cover interest thereon for (ten) years, at the rate of (five) per cent. per annum, the following special rates, over and above all other rates, shall be assessed and levied (in the same manner and at the same time as taxes are levied) upon the undermentioned lots and parts of lots; and the amount of the said special rates and interest assessed as aforesaid against each lot or part of lot respectively shall be divided into _____ equal parts, and one such part shall be assessed and levied as aforesaid, in each year, for _____ years after the final passing of this by-law, during which the said debentures have to run.

Concession.	Lot or Part of Lot.	Acres.	Value of Improvement.	To cover Interest for (10) years at (5) per cent.	Total Special Rate.	Annual Assessment during each year for (10) years.
			\$ cts.			
10	5	200	75 00			
"	S. $\frac{1}{2}$ 6	100	50 00			
"	N. $\frac{1}{2}$ 6	50	30 00			
"	S. W. $\frac{1}{4}$ 8	100	80 00			
"	5	200	150 00			
"	S. $\frac{1}{2}$ and N. $\frac{1}{2}$ 10	150	90 00			
			475 00			
Chargeable to Municipality for roads (or lands, or roads and lands)			120 00			
			595 00			

4th. For the purpose of paying the sum of \$120 being the total amount assessed as aforesaid against the said roads (or lands or roads and lands) of the said Municipality, and to cover interest thereon for (ten) years, at the rate of (five) per cent. per annum, a special rate of _____ in the dollar shall, over and above all other rates, be levied (in the same manner and at the same time as taxes are levied) upon the whole ratable property in the said Township of _____ in each year for the period of _____ years, after the date of the final passing of this by-law, during which the said debentures have to run.

(2) In the event of the assessment being altered by the Court of Revision or Judge, the by-law shall, before being finally passed, be amended so as to correspond with such alteration by the Court of Revision or Judge (as the case may be). 46 V. c. 18, s. 571; 49 V. c. 37, s. 24.

(3) In case the council shall finally pass the by-law before the time for appealing to the Judge has expired, or while an appeal is pending before him, the Judge shall, notwithstanding such by-law has been passed, proceed and determine the appeal; and if he varies the assessment, the council shall by an amending by-law alter the by-law in accordance with the variation in the assessment made by the Judge. 49 V. c. 37, s. 23.

NOTE.—See note to s. 414; see also ss. 66, 67, 200, 203, 380, 345, 427, 618, R. S. O. 1887, c. 88, Forms 1-7.

571.—(1) Before the final passing of the by-law it shall be published, once, or oftener, in every week for four weeks in such newspaper published either within the municipality or in the county town, or in a public newspaper published in an adjoining or neighbouring local municipality, as the council may designate by resolution, together with a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than ten days after the final passing thereof, serve a notice in writing upon the reeve or other head officer, and upon the clerk of the municipality, of his intention to make application for that purpose to the High Court, at Toronto, during the six weeks next ensuing the final passing of the by-law. 46 V. c. 18, s. 572 (1); 49 V. c. 37, s. 25. 55 V. c. 43, s. 55.

(2) The council may, at their option, instead of such publication in a newspaper, direct by resolution that a copy of the by-law and notice, written or printed, or partly written and partly printed, be served upon each of the several owners, their lessees or occupants, or upon the agent or agents of such owners, to be left at their places of residence with some grown up member of the family, or where the land is unoccupied and the owner or owners, or their agent or agents do not reside within the municipality, may cause to be sent by registered letter to the last known address of such owner or owners, a copy of the by-law and notice, and the by-law shall not be finally passed until

after the expiration of three weeks from the last of such services, and the clerk shall keep on file in his office a statutory declaration or declarations by the party or parties making the service or services, and the manner in which the same were affected.

(3) Such service shall be made or registered letter sent, and a copy of the notice of the appeal also served on the clerk of the municipality, at least twenty days prior to the sitting of the Court of Revision. 46 V. c. 18, s. 572 (2). See sec. 622. 55 V. c. 43, s. 56 (3).

572.—(1) In case no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the preceding section, or if the notice is served, then, in case the application is not made or is unsuccessful the by-law shall, notwithstanding any want of substance or form, either in the by-law itself or in the time and manner of passing the same, be a valid by-law.

(2) Where the application is made, and is successful in part, so much of the by-law as is not quashed upon the application shall be valid, notwithstanding any want of substance or form aforesaid. 46 V. c. 18, s. 573.

573.—(1) In case a by-law already passed, or which may be hereafter passed by the council of any municipality, for the construction of drainage works, by assessment upon the real property to be benefited thereby, and which has been acted upon by the construction of such works in whole or in part, does not provide sufficient means, or provides more than sufficient means for the completion of the works, or for the redemption of the debentures authorized to be issued thereunder as the same become payable, the said council may, from time to time, amend the by-law in order fully to carry out the intention thereof, and of the petition on which the same was founded, and to refund the surplus (if any) to the then owners of the land *pro rata* according to the original assessment. 46 V. c. 18, s. 574 (1); 49 V. c. 37, s. 26.

(2) Where a by-law which has been heretofore passed, or which may be hereafter passed under the provisions of the preceding sub-section, has been or shall hereafter be published in the manner required by section 571 of this Act, or in case of a city, town or incorporated village, has been or shall be notified in the manner required by section 622, section 572 shall apply to such by-law, and any by-law

passed under the said preceding sub-section need not be published unless the council sees fit; and the provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of the said sub-section which have heretofore been or shall hereafter be purchased by the direction of the Lieutenant-Governor in Council. 46 V. c. 18, s. 574 (2).

574. No debenture issued or to be issued under any by-law aforesaid shall be held invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums not in the whole exceeding the amount authorized by the by-law. 46 V. c. 18, s. 575.

575. Where it is necessary to continue the works aforesaid beyond the limits of any municipality, the engineer or surveyor employed by the council of such municipality may continue the survey and levels into the adjoining municipality, or upon the boundary between two or more municipalities, until he finds fall enough to carry the water beyond the limits of the municipality in which the work was commenced, and until he obtains a sufficient outlet for the water, and in every such case he may charge the lands and roads to the same extent and in the same manner as is provided by the next succeeding section. 46 V. c. 18, s. 576; 49 V. c. 87, s. 27. 55 V. c. 43, s. 57.

576. Where the works in the opinion of the engineer or surveyor aforesaid benefit lands in an adjoining municipality without extending into it, or greatly improve any road lying within any municipality or between two or more municipalities, then the engineer or surveyor aforesaid shall charge the lands to be so benefited and the corporation, person or company whose road or roads are improved with such proportion of the costs of the works as he may deem just; and the amount so charged for roads or ascertained by reference shall be paid out of the general fund of such municipality or company. 55 V. c. 43, s. 58.

577. The engineer or surveyor aforesaid shall determine and report to the council by which he was employed, whether the works shall be constructed and maintained solely at the expense of such municipality, or whether they shall be constructed and maintained at the expense of both municipalities, and in what proportion. 46 V. c. 18, s. 578.

578. The engineer or surveyor aforesaid, where necessary shall make plans and specifications of the works to be constructed, and charge the lands to be benefited by the work as provided herein. 46 V. c. 18, s. 579.

579. The council of the municipality in which the deepening or drainage is to be commenced, shall serve the head of the council of the municipality into which the same is to be continued, or whose lands or roads are to be benefited without the deepening or drainage being continued, with a copy of the report, plans, specifications, assessment and estimates of the engineer or surveyor aforesaid; and unless the same is appealed from as hereinafter provided it shall be binding on the council of such municipality. 46 V. c. 18, s. 580.

580. The council of such last mentioned municipality shall, within four months from the delivery to the head of the corporation of the report of the engineer or surveyor, as provided in the next preceding section, pass a by-law or by-laws to raise and pay over to the treasurer of the initiating municipality such sum as may be named in the report, or in case of an appeal, for such sum as may be determined by the arbitrators, in the same manner and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed and petitioned as provided in section 569 of this Act, and such council shall hold the Court of Revision provided for by sub-section 10 of section 569 of this Act. 46 V. c. 18, s. 581. 52 V. c. 36, s. 32—55 V. c. 48, s. 55.

581.—(1) The council of the municipality into which the work is to be continued, or whose lands, road or roads are to be benefited without the work being carried within its limits, may, within twenty days from the day in which the report was served on the head of the municipality, appeal therefrom, in which case they shall serve the head of the corporation from which they received the report, with a written notice of appeal; such notice shall state the ground of appeal, the name of an engineer or other person as their arbitrator, and shall call upon such corporation to appoint an arbitrator in the matter on their behalf, within ten days after the service of such notice.

(2) When it is proposed to continue the deepening or drainage from the municipality in which the same is to be commenced into another municipality, and when through

misapprehension or mistake the council served with the report, plans and specifications of the engineer or surveyor, omits to appeal therefrom within twenty days, the Judge of the County Court of the county in which the municipality so served as aforesaid is situated may, upon application at any time before the drainage works have been already commenced or the contract let for the same, or the debentures have been actually issued under the said by-law, after the said twenty days have elapsed, by order, grant permission to appeal, upon such terms and conditions, as to costs and otherwise, as he deems just and reasonable, within a time to be limited by him in the order; or the other council or councils interested may, by resolution waive the lapse of the said time, and in either of such cases the proceedings for appeal shall be the same as would have been required if the appeal had been gone on with in the proper time.

(3) The summons to shew cause why an appeal should not be allowed shall not be returnable in less than seven days from the service thereof, and the council or councils shall have power to amend any by-law or by-laws which may have been passed as shall become necessary or proper, by reason of the appeal or the result thereof. 46 V. c. 18, s. 582 (1-3).

582. The arbitrators shall be appointed by the parties in manner hereinbefore provided by the sections of this Act with reference to arbitration, and shall proceed as therein directed; but in no case shall the engineer or surveyor employed to make surveys, plans and specifications, nor any ratepayer or person interested in the construction of any such works be appointed or act as arbitrator, but nothing in this Act shall be construed to give authority to such arbitrators to hold or act as or perform the work of a Court of Revision as provided for by sub-section 10 of section 569. 46 V. c. 18, s. 588; 52 V. c. 36, s. 83.

583.—(1) After such work is fully made and completed, whether the work has been done under this Act or under any former or other Act respecting drainage works and local assessment therefor, it shall be the duty of each municipality, in the proportion determined by the engineer or arbitrators (as the case may be), or until otherwise determined by the engineer or arbitrators, under the same formalities, as nearly as may be, as provided in the preceding sections, to preserve, maintain and keep in repair the

same within its own limits, either at the expense of the municipality, or parties more immediately interested, or at the joint expense of such parties and the municipality, as to the council upon the report of the engineer or surveyor may seem just. 46 V. c. 18, s. 584 (1); 52 V. c. 36, s. 34.

(2) Any such municipality neglecting or refusing so to do upon reasonable notice in writing being given by any person interested therein, and who is injuriously affected by such neglect or refusal, may be compellable by *mandamus*, to be issued by any Court of competent jurisdiction, to make from time to time the necessary repairs to preserve and maintain the same; and shall be liable to pecuniary damage to any person who, or whose property is injuriously affected by reason of such neglect or refusal.

- (a) Provided, nevertheless, that any municipality, after receiving such notice, may within fourteen days thereafter apply to the Judge of the County Court of the county within which the municipality is situate to set aside the notice. Such application may be made upon four days' notice to the person or persons who gave the notice to the municipality, and the Judge shall, after hearing the parties and any witnesses that may be called or other evidence, adjudicate upon the questions in issue, confirm the notice or set it aside, as to him shall seem proper, or order that the said work shall be done wholly or in part, and the costs of and concerning the said motion shall be in the discretion of the Judge, except as hereinafter mentioned, and may be taxed upon the County or Division Court scale, as the Judge may direct.
- (b) Should the judge find that the notice to the council was given maliciously, or vexatiously, or without any just cause, or to remove an obstruction which, under section 588 of *The Municipal Act*, it was the duty of the person giving the notice to remove, he shall, notwithstanding anything hereinbefore contained, order the costs to be paid by the person giving such notice.
- (c) Any costs which the municipality may be called upon to pay, by reason of any proceedings in this amendment mentioned, shall be a charge

upon the lands benefited, and may be levied and collected in the same way as the cost or expense of keeping the drain or ditch in repair are levied or collected.

(d) A mandamus against the municipality shall not be moved for until after the lapse of fourteen days from the date of service of the notice upon the municipality in any case, nor while the motion is pending before the County Court Judge, and thereafter only on an appeal in the next subsection provided for.

(e) Any party to such proceedings may appeal to a Divisional Court of the High Court of Justice, from the decision or judgment of the Judge, upon the application and the proceedings in and about such appeal shall be the same as nearly as may be as upon an appeal from the decision or judgment of a Judge of the County Court under chapter 47 of the Revised Statutes of Ontario, 1887.

Upon any such appeal the Court may determine whether a mandamus shall issue or otherwise, and may make such order as will do justice in the matter.

Nothing herein shall authorize an appeal upon the mere question of costs. 47 V. c. 32, s. 18; 52 V. c. 36, s. 35.

(3) The deepening, extending or widening of a drain in order to enable it to carry off the water it was originally designed to carry off, shall be deemed to be a work of preservation, maintenance, or keeping in repair within the meaning of this section; provided the cost of such extension does not exceed the sum of \$200, and in every case when it exceeds that amount, proceedings shall be taken under the provisions of section 585. 48 V. c. 39, s. 26 (2); 50 V. c. 29, s. 47.

584. After any works undertaken under section 598 are fully made and completed, it shall be the duty of each minor municipality to preserve, maintain and keep in repair the same within its own limits, in accordance with the requirements of the preceding section, which shall be applicable thereto. 46 V. c. 18, s. 585.

585. In any case wherein the better to maintain any drain constructed under the provisions of this Act, or of *The Ontario Drainage Act* and amendments thereto, or of *The Ontario Drainage Act of 1879*, or of any other Act respecting drainage works and local assessment therefor, or of *The Municipal Drainage Aid Act* or to prevent damages to adjacent lands, it shall be deemed expedient to change the course of such drain, or make a new outlet, or otherwise improve, extend or alter the drain or to cover any portion of said drain where it passes through a ridge of land, the council of the municipality, or of any of the municipalities whose duties it is to preserve and maintain the said drain, may, on the report of an engineer appointed by them to examine and report on such drain, undertake and complete the alterations and improvements or extensions specified in the report under the provisions of sections 569 to 582 inclusive, without the petition required by section 569; and the engineer or surveyor, Court of Revision, county judge or referee (as the case may be) shall for such alterations, improvements or extension have all the powers to assess and charge lands and roads conferred by said sections and section 590.

(2) When the engineer reports that the covering of any portion of a drain that has been, or which may hereafter be constructed under the provisions of any of the aforesaid Acts, is necessary for the efficiency of any such drain and is necessary to the better maintaining and keeping in repair of any such drain, then in such case he shall determine the size and capacity of the proposed covered portion of said drain, and also the material to be used in the construction thereof. 46 V. c. 18, s. 586; 47 V. c. 32, s. 19; 48 V. c. 39, s. 27; 49 V. c. 37, s. 28; 50 V. c. 29, s. 39; 53 V. c. 50, s. 36; 55 V. c. 43, s. 60.

586. (1) In any case wherein after such work is fully made and completed, the same has not been continued into any other municipality than that in which the same was commenced, or wherein the lands or roads of any such other municipality are not benefited by such work whether the work has been done under this Act or under any former or other Act respecting drainage works and local assessment therefor, it shall be the duty of the municipality making such work to preserve, maintain and keep in repair the same at the expense of the lots, parts of lots and roads, as the case may be, as agreed upon and shewn in the by-law when finally passed.

(2) In any case where similar work has been constructed out of the general funds of the municipality, the council may, without petition, on the report of an engineer or surveyor, pass a by-law for preserving, maintaining and keeping in repair the same at the expense of the lots, parts of lots and roads, as the case may be, benefited by such work, and may assess such lots, parts of lots and roads so benefited, for the expense thereof, in the same manner, by the same proceedings, and subject to the same right of appeal as is provided with regard to works made and completed under the provisions of this Act. 46 V. c. 18, s. 587 (1, 2); 50 V. c. 29, s. 40; 52 V. c. 36, s. 36.

(3) The council may, from time to time, change such assessment on the report of an engineer or surveyor appointed by them to examine and report on such work and repairs, subject to the like rights of appeal as a person charged would have in the case of an original assessment; and the said council shall appoint a Court of Revision to consider such appeals in the manner heretofore provided. 50 V. c. 29, s. 41, *part*.

(4) The deepening, extending, or widening of a drain in order to enable it to carry off the water it was originally designed to carry off, shall be deemed to be a work of preservation, maintenance, or keeping in repair within the meaning of this section; provided the cost of such extension does not exceed the sum of \$200, and in every case where it exceeds that amount, proceedings shall be taken under the provisions of section 585. 48 V. c. 39, s. 26 (2); 50 V. c. 29, s. 47.

(5) In any of the cases referred to in this and the preceding sections, any moneys that have been or may hereafter be advanced by the council of any municipality out of its general funds in anticipation of the levies to be made for the purposes of the said sections, shall be recouped to the municipality so soon as the moneys derived from the assessment shall have been made. 50 V. c. 29, s. 41, *part*.

587. The provisions of sections 583, 586 and 589 of this Act shall extend to drains constructed under the provisions of *The Ontario Drainage Act*, and amendments thereto, or of *The Ontario Drainage Act, 1873*, or of *The Municipal Drainage Aid Act*, the word "assessors" being substituted as to such drains for the word "engineer" in the third line of section 583, 48 V. c. 39, s. 26 (1).

588. (1) In the event of any ditch, drain, creek or watercourse that has been constructed or opened up under the provisions of *The Ontario Drainage Act*, or any of the amendments thereto, or under the provisions of any Act respecting drainage to be paid by local rate, becoming obstructed, so that the free flow of the water is impeded thereby, if the aforementioned obstructions have been wilfully or through negligence placed in such ditch, drain, creek, or water-course, by any party or parties through whose land, or between whose lands, such ditch, drain, creek, or water-course is situate, the party or parties causing the same shall, upon notification in writing by the council of the municipality, or an officer appointed by the council of the municipality, or an officer appointed by the council for the inspection or care of drains, remove such obstructions, and if not so removed within the time specified, the council shall, without further delay, have the same removed at the cost of the said party or parties. 46 V. c. 18, s. 588 (1) ; 49 V. c. 37, s. 29, *part*.

(2) If such cost is not paid by the party or parties to the person performing the same when the work is completed, the council shall pay the amount to the party performing the work ; and the clerk of the municipality shall place such amount upon the collector's roll against the party or parties, as the case may be, with ten per cent. added thereto, and the same shall be collected like other taxes, subject, however, to an appeal by the said party, or parties, in respect of the cost of the work, to the Judge of the County Court of the county in which the lands are situate, in the same manner as is provided by section 11 of *The Ditches and Watercourses Act*. 46 V. c. 18, s. 588 (2).

(3) Any person or persons who shall wilfully and intentionally obstruct, fill up or injure, any drains constructed under the provisions of any of said Acts, or wilfully or intentionally cut, destroy or injure any embankment or other drainage work connected therewith, shall upon the complaint of the council of the municipality, liable to keep such drain, embankment or work in repair, and upon conviction thereof before a Justice of the Peace, be liable to a fine of not less than \$1 nor more than \$50. 49 V. c. 37, s. 29 *part*.

589.—(1) Where the repairs, required to be made under either section 588 or section 586, are so extensive that the municipal council does not deem it expedient to levy the

cost thereof in one year, the said council may pass a by-law to borrow upon the debentures of the municipality the funds necessary for the work, and shall assess and levy upon the property benefited a special rate sufficient for the payment of the principal and interest of the debentures ; the by-law shall not require the assent of the electors.

(2) The provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of any such by-law, if such by-law, before it was finally passed, was published or notified in the manner provided by section 571 of this Act, or, after it was passed, was promulgated in the manner authorized by section 829 of this Act. 46 V. c. 18, s. 589.

590. If a drain already constructed, hereafter constructed or proposed to be constructed by a municipality, is used as an outlet or will provide when constructed an outlet for the water of the lands of another municipality, or of a company, or an individual, or if from the lands of any municipality, company or individual, water is by any means caused to flow upon and injure the lands of another municipality, company or individual, then the lands that use or will use such drain when constructed as an outlet either immediately, or by means of another drain from which water is caused to flow upon and injure lands, may be assessed in such proportion and amount as may be ascertained by the engineer or surveyor, court of revision, county judge or referee under the formalities, except the petition, provided in the foregoing sections, for the construction and maintenance of the drain so used or to be used as an outlet as aforesaid, or for the construction and maintenance of such drain or drains as may be necessary for conveying from such lands the water so caused to flow upon and injure the same. 55 V. c. 48, s. 61.

591. If any dispute arises between individuals, or between individuals and a municipality or company, or between a company and municipality, or between municipalities, as to damages alleged to have been done to the property of any municipality, individual or company, in the construction of drainage works, or consequent thereon, then the municipality, company or individual complaining may refer the matter to arbitration, as provided in this Act ; and the award so made shall be binding on all parties. 46 V. c. 18, s. 591.

592. Where, on account of proceedings taken under this Act, or *The Ontario Drainage Act*, or other Acts respecting drainage works and local assessments therefor, damages are recovered against the corporation or parties constructing the drainage works, or other relief is given by any judgment or order of any Court, or any award made under this Act, all such damages, or any sum of money that may be required to enable the corporation to comply with any such judgment, order or award, made in respect thereof, shall be charged *pro rata* upon the lands and roads liable to assessment for such drainage works; provided always, that if to enable the corporation to comply with any such judgment, order or award, it shall be necessary or expedient to change the course of any drain, or to make a new outlet or otherwise improve or alter any drain or drainage works, the same shall for all purposes, and in all respects be dealt with and carried out, and all works and operations in respect thereof shall be executed and performed as if the same were alterations and improvements within the meaning of section 585, and all provisions of this Act applying to, or in respect of any work, alterations or improvement provided for by the said section, shall apply to any work, alteration or improvement intended to be provided for by this section. 49 V. c. 37, s. 31.

593. In case any person finds it necessary to continue an underdrain into an adjoining lot or lots, or across or along any public highway, for the purpose of an outlet thereto, and in case the owner of such adjoining lot or lots, or the council of the municipality refuses to continue such drain to an outlet, or to join in the cost of the continuation of such drain, then the firstly mentioned person shall be at liberty to continue his said drain to an outlet, through such adjoining lot or lots, or across or along such highway; and in case of any dispute as to the proportion of cost to be borne by the owner of any adjoining lot or municipality the same shall be determined under the provisions of and in the same manner as is provided for the determination of similar disputes by *The Ditches and Watercourses Act*. 48 V. c. 39, s. 28.

594. Where, under the provisions of sections 569 to 632 both inclusive, of this Act, a ditch is being constructed for drainage purposes along a road allowance, contracts may be made, by the municipal council so constructing, for spreading the earth taken from the ditch on the road; and

if the road or any part thereof is timbered, or if stumps are in the way, the timber may be removed ; and not less than twelve feet of the centre of the road shall be grubbed before the earth is spread upon it. 46 V. c. 18, s. 594.

595. The removal of the timber, grubbing and spreading of the earth, together with such portion of the cost of the ditch as the engineer or provincial land surveyor may deem just and proper, shall be charged to the municipality and paid out of its general funds. 46 V. c. 18, s. 595.

596. When it is necessary to construct such a ditch on a town line between two or more municipalities, the municipal council of either of the adjoining municipalities may, on petition, as provided for in section 569 of this Act, cause the ditch to be constructed on the road allowance between the municipalities, and make the road in manner as provided in the last preceding two sections of this Act, and shall charge the lands and roads benefited in the adjoining municipality or municipalities with such proportion of the cost of constructing the said ditch as the engineer or surveyor aforesaid deems just and proper ; and the amount so charged for roads, or agreed upon by the arbitrators, shall be paid out of the general funds of such municipality or municipalities. 46 V. c. 18, s. 596 ; 55 V. c. 43, s. 62.

597. The provisions of sections 569 to 632, both inclusive, of this Act, shall apply, as far as applicable, to such ditch. 46 V. c. 18, s. 597.

598.—(1) Where any works proposed to be constructed in any locality under section 569 affect more than one municipality, either on account of such works passing, or partly passing, through two or more municipalities, or on account of the lowering or raising of the waters of any stream or lake, which is contemplated in the proposed scheme of drainage, either draining or flooding lands in two or more townships, the county council of the county to which such municipalities belong, upon the application of the council of any of the municipalities affected, and without any preliminary petition from the owners of the property to be benefited may pass by-laws for the purposes authorized by the said section. 46 V. c. 18, s. 598 (1).

(2) Unless where contrary to this Act the provisions of sections 569 to 574, 576, 590, and 591 shall apply to any works constructed under this section ; but the Court to be

held for the trial of complaints in the first instance shall be composed of three or more persons, nominated by the county council for that purpose, who may or may not be members of the council as the council may deem expedient and any three or more of the persons nominated who are present at the sittings of such Court may proceed and adjudicate upon any complaints notwithstanding the absence of one or more of the members of the Court. The engineer or surveyor who made the assessment shall not be a member of the Court of Revision. 46 V. c. 18, s. 598 (2); 49 V. c. 37, s. 38.

(3) The sittings of such Court shall be held in the county town, or in such other place or places as the county council or the majority of the said Court may name. All complaints against the assessment shall be lodged with the clerk of the county. 46 V. c. 18, s. 598 (3).

599. The county shall raise the money necessary for the construction of the said works, but each township shall be liable to the county for the amount payable in respect of all the lands within such township, and each township shall pass such by-laws as may be requisite for collecting the amount assessed against the lands or roads within its jurisdiction. 46 V. c. 18, s. 599.

600.—(1) In case the municipalities upon which the cost of the works would fall are in several counties, any of the counties may procure an examination to be made by an engineer or Provincial land surveyor of the lands affected by the proposed works, and may procure plans of the work, and estimates to be made of the cost thereof, including an estimate of the amount to be paid for damages, if any, and an assessment to be made by such engineer or Provincial land surveyor of the real property to be benefited, stating as nearly as may be in the opinion of such engineer or surveyor, the proportion of benefit to be derived from such works by every road and lot or portion of lot.

(2) Any municipality may agree to indemnify the county, in respect of the expenses incurred in the case of the works not being proceeded with. 46 V. c. 18, s. 600.

601. The council shall thereupon, if it considers it desirable to proceed with the work, pass a resolution to this effect, and shall cause a copy of the said report to be published at least once in newspapers published in the county

towns of the several counties affected, or in newspapers published in such of the said county towns as have newspapers, but it shall not be necessary that such report shall be published in more than one paper in one county town, and shall cause to be served a copy of the report, plans, specifications, estimates and assessment upon the warden of each of the other counties affected. 46 V. c. 18, s. 601.

602.—(1) In case ten of the owners of the property assessed, within ten days of the first publication of the report in a newspaper published in the county town of the county the council of which procured the examination to be made, petition such council not to proceed with the work, such council shall, if it desires to proceed therewith, pass a by-law for taking the votes of the persons assessed, upon the question whether or not the work shall be proceeded with; such by-law shall provide for holding a polling place in each municipality affected, whether within or without the county passing the by-law; and every person whose lands are assessed, or if the lands of a married woman are assessed, then the husband of such married woman, shall be entitled to vote upon the question: Provided the person proposing to vote is of the full age of twenty-one years, and shall, if required, name the lands in respect of which he claims to be entitled to vote; and shall also, if required take the oath or affirmation following: *

You swear that you are of the full age of 21 years, and a natural born (or naturalized) subject of Her Majesty.

That you have not voted before in the township on the question now being voted upon.

That you are the owner (*or as the case may be*) of the lands in respect of which you claim to vote, namely (*here mention the lands*).

That you are, according to law, entitled to vote on the said question.

That you have not directly or indirectly, received any reward or gift, nor do you expect to receive any, for the vote which you tender.

That you have not received anything, nor has anything been promised to you, directly or indirectly, either to induce you to vote on the said question, or for loss of time, travelling expenses, hire of team, or any other service connected therewith.

That you have not directly or indirectly, paid or promised anything to any person, either to induce him to vote or to refrain from voting.

So help you God.

(2) The clerk of each municipality shall act as deputy returning officer at the polling place in such municipality, and the proceedings for taking the poll shall be the same, as nearly as may be, as the proceedings upon voting upon a by-law.

(8) The clerk of the county council which passed the by-law shall act as returning officer. 46 V. c. 18, s. 602.

603.—(1) If a vote of the owners has been taken, and they have decided in favour of proceeding with the work, or if such a vote has not been taken, then after the time for presenting a petition as aforesaid has elapsed, in case the council or councils of the county or counties upon which two-thirds of the cost of such work fall, shall have passed a resolution or resolutions to the effect that it is desirable to proceed therewith, the council which caused the survey to be made may serve upon the warden of the other county, or each of the other counties, a notice (hereinafter called a requisition of appeal) requiring such county to state whether or not it is content to accept the assessment made, as shewing the proper proportion to be borne by such county, and notifying such council that if dissatisfied with such assessment they must, within thirty days from the receipt of such notice by their warden, appeal therefrom.

(2) If the council whose warden is served with a requisition of appeal do not, within thirty days of such service, serve the warden of the council from which they received the requisition with a written notice of appeal, they shall be deemed to have accepted the assessment: Provided that the High Court or a Judge thereof, if it be shewn that the omission to serve the notice of appeal was through mistake, oversight or misadventure, may upon such terms, as to the Court or Judge seems just, relieve them, and permit them to appoint an arbitrator.

(3) In case a council whose warden is served with a requisition of appeal is dissatisfied with the proportion assessed against the county, or with the proportion assessed against any other county, they shall, within thirty days of the receipt of the requisition by their warden, serve the warden of the county from which they received the requisition with a written notice of appeal, and shall also serve each of the other counties affected with a like notice.

(4) The notice shall state the grounds of appeal, and the name of an arbitrator appointed by such council, and shall call upon the council served to appoint an arbitrator on their behalf within ten days after service of such notice.

(5) In default of an appointment, within the said term, the Judge of the County Court of the county in default shall appoint an arbitrator for such county.

(6) Neither the engineer or surveyor who made the assessment, nor any officer or member of any council concerned, shall be appointed an arbitrator.

(7) In case, after such council has appointed an arbitrator, there is an even number of arbitrators, such arbitrators shall select an additional arbitrator, or in case of the arbitrators not agreeing in such selection within thirty days after the completion of their number, the Lieutenant-Governor in Council may appoint such additional arbitrator. 46 V. c. 18, s. 603.

604. The arbitrators shall, by their award, determine the proportion of the cost of such work that is to be borne by each of the minor municipalities whose lands are affected thereby. 46 V. c. 18, s. 604.

605. In case of a difference between the arbitrators the decision of the majority shall be conclusive, and the arbitrators shall make their award in so many parts as may be necessary to permit of one thereof being filed with the clerk of each of the counties interested, and one shall be filed with the clerk of each such county accordingly. 46 V. c. 18, s. 605.

606. In case a majority of the arbitrators are unable within six months of their appointment, to agree, or in case, prior to the expiration of the said term they, by an instrument in writing, signed by the majority of them, declare their inability to agree upon a complete award, any of the counties interested may apply to a Judge of the High Court to appoint an umpire, and the umpire may make an award upon hearing the points in difference between the arbitrators stated by them, or may, if he deems necessary, re-hear the entire case, or such particular parts thereof as he considers requisite. 46 V. c. 18, s. 606.

607. Any of the minor municipalities interested may appear, by their head, or by their counsel or agent, before the arbitrators, in support of the assessment, or of any variations which they contend should be made in the proportions in which the minor municipalities are assessed. 46 V. c. 18, s. 607.

608. In case more counties than one are concerned, no by-laws for assessing the cost of the work upon the various parcels and roads shall be passed until it is ascertained

that there is not to be an appeal, or until after the award is made, where an appeal is had. 46 V. c. 18, s. 608.

609. Immediately upon an award being made, or, in case there is no appeal, immediately after the time for appealing has elapsed, each county interested shall pass a by-law or by-laws to raise the sum chargeable against such county, and for assessing and levying the same, in accordance with the proportions fixed by the report of the engineer or surveyor, upon the real property within the county to be benefited by the said works, and for the appointment of a court for the trial, in the first instance, of complaints against such assessment, in the same manner and subject to the same conditions as is hereinbefore provided in respect of a county which is solely interested. 46 V. c. 18, s. 609.

610. Sections 584, 592 and 599, and sub-sections 2 and 3 of section 598 shall apply to drainage works, in which several counties are interested, as well as to works which only affect one county.

(a) Nothing in section 598 and subsequent sections contained shall be construed to reduce or take away the powers of any municipal council of a township, city town or incorporated village to undertake and carry out drainage works under sections 569 to 597 (both inclusive) notwithstanding that such works affect more than one municipality. 46 V. c. 18, s. 610; 55 V. c. 43, s. 63.

611. In case any of the drainage works hereinbefore referred to, are to be carried through, across, under or along the railway of any railway company, in respect of which this Legislature has authority in this behalf, the powers of the municipal councils are, so far as regards the railway, to be exercised, subject as nearly as may be to the terms and restrictions contained in *The Railway Streets and Drains Act*. 46 V. c. 18, s. 611.

NOTE.—571—611*d*. See ss. 496 (84), 509 (1), 521 (12), also the Ditches and Water Courses Act, R. S. O. 1887, c. 220. The Ontario Drainage Act, R. S. O. 1887, c. 36; The Municipal Drainage Act, R. S. O. 1887, c. 37; The Tile, Stone and Timber Drainage Act, R. S. O. 1887, c. 38; The Railway Streets and

Drains Act, c. 199 ; The Drainage Trials Act, 54 V. c. 51. By 611 c. exemption from any general rate or assessment "for the like purpose" in so far as relates to ss. 611*a* and 611*b*, where all the owners to be benefited petition for improvements is subject to the decision of the Council, not so under s. 624. See sec. 637*a*, *et seq.*, 54 V. c. 42, ss. 35-43.

612. The council of every township, city, town, and incorporated village may pass by-laws for the following purposes :

(1) For providing the means of ascertaining and determining what real property will be immediately benefited by any proposed work or improvement, the expense of which is proposed to be assessed, as hereinafter mentioned, upon the real property benefited thereby ; and of ascertaining and determining the proportions in which the assessment of the cost thereof is to be made on the various portions of real estate so benefited ; and there shall be the same right of appeal from any such assessment or proposed scale of assessment to the court of revision, and from the court of revision to the county judge, as is provided for by section 569 of this Act ; and the proceedings thereon shall except as otherwise provided in section 618 of this Act be the same respectively as in the case of appeals from ordinary assessments under *The Assessment Act*, R. S. O. (1887) c. 184, s. 612 (1).

(2) For assessing and levying by means of a special rate, the cost of deepening any stream, creek, or watercourse, and draining any locality, or the cost of making, enlarging or prolonging any common sewer, or of opening, widening, prolonging or altering, macadamizing, grading, levelling, paving or planking any street, lane, alley, public way or place, or of constructing any sidewalk, bridge, culvert or embankment forming part of a highway therein, or of curbing, sodding, or planking any street, lane, alley, square, or other public place, or in any case where a system of waterworks has been constructed by such municipality, then, for providing for the cost of the extension within the limits of such municipality of branch mains and pipes, and all other work necessary for connecting the properties of the property owners with the waterworks system of said municipality, in order to permit such property owners to receive the benefit of such waterworks ; or, in any case where a system for lighting within a municipality has been

constructed, or erected, by such municipality then for providing for the cost of the extension within the limits of such municipality of the poles, wires and pipes, and all other work necessary for lighting any street, square, or other public place whereon the lands to be benefited thereby front or abut, or of reconstructing any work hereby provided for. R.S.O. (1887) c. 184 s. 612 (2).

(3) For regulating the time or times and manner in which the assessments to be levied under this section are to be paid, and for arranging the terms on which parties assessed for such works or improvements may commute for the payment of their proportionate shares of the cost thereof in principal sums. R. S. O. (1887) c. 184, s. 612, (6).

(4) For effecting any such work or improvements as aforesaid with funds provided by parties desirous of having the same affected. R. S. O. (1887) c. 184, s. 612, (7).

(5) If the contemplated work or improvement is the construction of a common sewer having a sectional area of more than four feet, one-third of the whole cost thereof shall be provided for by the council; and the council of every municipality which has not passed a by-law within and under the provisions of section 625 of this Act shall also provide in connection with all sewers, the cost of all culverts and other works necessary for street surface drainage, and also the cost of that part of every such work, improvement or service which is incurred at and is chargeable in respect of street intersections, and also that part thereof done or made opposite real property which by any general or special Act is exempt from special or local assessment. R. S. O. (1887) c. 184, s. 612 (8).

(6) If the contemplated works or improvements relate to any stream, creek, or watercourse, or to draining any locality, and in the opinion of the engineer or surveyor specially benefit any lands lying within the municipality or any road or roads lying therein or any roads therein belonging to any other municipality or corporation, then the engineer or surveyor aforesaid shall charge the lands road or roads to be so benefited, and the municipality, corporation, person or company whose lands, road or roads are improved with such proportion of the cost of the work or improvement as he may deem just, and the amount so charged for lands or roads, or agreed upon by arbitra-

tion shall be paid by such person or out of the general funds of the municipality, corporation or company, as the case may be, and the provisions of this Act relating to drainage so far as applicable shall apply to any such work or improvement constructed under this section. R. S. O. (1887) c. 184, s. 612 (10).

613.—(1) The special rate to be so assessed and levied shall be an annual rate according to the frontage thereof, upon the real property fronting or abutting upon or extending to within six feet of the street or place whereon or wherein such improvement or work is proposed to be done or made. R. S. O. (1887) c. 184, s. 612 (4); 55 V. c. 43, s. 66.

(2) If in any case the first assessment for any such work or improvement proves insufficient, the council shall make a second or other additional assessment in the same manner, and so on until sufficient moneys shall have been realized to pay for such improvement or work, and if too large a sum shall at any time be raised, the excess shall be refunded ratably to those by whom it was paid.

(3) In the case of a township, any portion of which is situate within five miles of a city containing 50,000 inhabitants or more, if the council shall determine that any real property other than that fronting or abutting on the street, lane, alley, public way or place, or the portion thereof whereon or wherein the improvement made or to be made is specially benefited and ought to be charged with a part of the cost thereof, and shall determine the proportion in which the cost of the improvement shall be assessed against the land so benefited, the council may, upon the petition of three-fourths in number of the owners representing three-fourths in value of the lands to be benefited, assess and levy the proportion of the costs chargeable against the lands benefited, and whether or not fronting or abutting upon such street, lane, alley, public way or place by frontage rate in like manner as the same would be assessed and levied in the case of lands fronting or abutting upon the street, lane, alley, public way or place, or the portion thereof whereon or wherein the improvement is made or to be made; provided, however, that instead of assessing and levying by a frontage rate, the council may by by-law provide that the cost of the local improvement therein specified may be assessed and levied by a special rate upon the lands benefited thereby, according to the proportion of benefit received

therefrom, instead of by a frontage rate as hereinbefore provided. R. S. O. (1887) c. 184, s. 612 (5); 55 V. c. 43, s. 67.

614. Nothing contained in the two preceding sections shall be construed to apply to any work of ordinary repair or maintenance; and all works or improvements constructed under the said sections shall thereafter be kept in a good and sufficient state of repair at the expense of the township, city, town, or village generally. R. S. O. (1887) c. 184, s. 612 (8).

615. It shall be deemed to have been and to be a sufficient compliance with the provisions of section 612, if the council shall have passed or shall pass a general by-law or general by-laws, providing the means of ascertaining and determining what real property will be immediately benefited by any proposed work or improvement, the expense of which is proposed to be assessed upon the real property immediately benefited thereby, and of ascertaining and determining the proportions in which the assessment of the final cost thereof is to be made on the various portions of real estate so benefited, and it shall not be deemed to have been, or to be necessary to pass a special by-law in each particular instance for the purposes above mentioned. R. S. O. (1887) c. 184, s. 612 (1) (a).

616.--(1) Upon the receipt of a petition praying for any of the works and improvements mentioned in the four preceding sections, signed by at least two thirds in number of the owners of any real property to be benefited thereby, according to the last revised assessment roll of the municipality, such owners representing at least one-half in value of such real property, the council may take all proper and necessary proceedings for the execution and completion of such work or improvement with as little delay as possible. R. S. O. (1887) c. 184, s. 612 (9).

(2) Where the word "owner" occurs in this Act in sections 569 to 629, both inclusive, it shall be construed and deemed to include a leaseholder, the unexpired term of whose lease (including any renewals therein provided for) extends over a period which is not less than the duration of the proposed assessment, if the lessee has covenanted in his lease to pay all municipal taxes on the demised property during the term of said lease, and would be liable for the taxes for the proposed improvements, and every such lessee

shall have the same right to petition for or against any local improvement proposed to be constructed under this Act as if he were the owner of the property, liable to be assessed therefor. (*New*).

(3) In any case where a lessee has the right to petition for or against any proposed improvement under the provisions of the last preceding sub-section, the owner of the property in fee shall not have such right, but this sub-section and sub-section two shall not apply to townships. (*New*).

(4) If the council of any city or town upon the recommendation of the local board of health, affirms by a vote of two-thirds of all the members of the council at any regular meeting thereof, that it is desirable and necessary in the public interest, to construct, make, enlarge or prolong a drain, sewer or sewers, for the purpose of draining a particular locality for sanitary or drainage purposes, as a local improvement it shall not be necessary for such council to give notice of the proposed assessment for such local improvement, except the notice of the sitting of the court of revision for the purpose of hearing complaints against such proposed assessment that is required by sub-section 4 of section 618 of this Act. This shall not affect or impair the powers heretofore conferred upon any municipality by special Act. (*New*). 54 V. c. 42, s. 26.

617.—(1) Any such work or improvement may be undertaken by the council and the assessment of the cost thereof made upon the properties benefited thereby, unless the majority of the owners of such real property (to be ascertained as aforesaid), representing at least one-half in value thereof, petition the council against the same, within one month after the last publication of a notice of the intention of the council to undertake the said work, such notice to be inserted in at least two newspapers published in such township, city, town or incorporated village, if there are two newspapers published therein; and if there are not, then in a newspaper published nearest to the proposed improvement or work, such publication to be once in each week for two weeks. R. S. O., (1887) c. 184, s. 612 (4).

(2) In the event of any such petition against any such proposed work or improvement, sufficiently signed, being presented to the council, no second notice for the same proposed work or improvement shall be given by the council within two years thereafter. R. S. O., (1887) c. 184, s. 612 4) (b).

(8) The number of the owners petitioning against the proposed improvement or work and the value of the real property which they represent, may be ascertained and finally determined as aforesaid, or in such manner or by such means as are provided by by-law in that behalf. R. S. O., (1887) c. 184, s. 612 (4) (c).

(4) In any case when notice of a proposed improvement, work or service to be paid for by special assessment as a local improvement, has been given by the council of any municipality pursuant to the provisions of the *Municipal Act* then in force, or any amending Act or Acts, and no petition sufficiently signed as aforesaid has been presented to the said council or to the succeeding council against such proposed improvement, work or service and assessment within the time limited in that behalf by the said Acts, it shall be lawful for the said council, in the same or any succeeding year, to carry on the proposed work, improvement or service to completion, before making the assessment therefor; and such notice, so given, shall stand good as the authority for undertaking any such work, improvement or service, and for making such assessment or assessments, and passing all necessary by-laws, whether the same shall have been or shall be undertaken and completed by the council giving such notice, or by the council in any succeeding year. R. S. O., (1887) c. 184, s. 616.

618.—(1) No by-law passed by the council of any township, city, town or incorporated village, under the provisions of sections 569, 570 or 612 of this Act shall require to be advertised or published by the said council in any newspaper, but a written or printed, or partly written and partly printed notice of the sitting of the court of revision for the confirmation of every such special assessment shall be given to the owners and lessees having the right to petition, or the agents of such owners and lessees of each parcel of real estate included in such by-laws and assessments.

(2) Every such notice shall contain a general description of the property in respect of which the same is given, the nature of the improvements, works or services, the total cost thereof, the amount of the assessment on the particular piece of property, and the time and manner in which the same is payable, and shall be signed by the clerk or the assessment commissioner or other officer to be

appointed by the council for the purpose, and be mailed to the address of the person entitled to notice at least fifteen days before the day appointed for the sittings of the said court, and ten days notice shall also be given by publication in some newspaper having a general circulation, of the time and place of the meeting of the said court, which notice shall specify generally what such assessment is for and the total amount to be assessed. R. S. O., (1887) c. 184, s. 622.

(3) Where the notice of the intention of the council to undertake any work or improvement is given under the provisions of a general by-law passed under section 615, and which provides, or is intended to provide, that the special rate to be assessed therefor shall be an annual rate according to the frontage of the real property fronting or abutting upon the street or the portion of the street or the place whereon or wherein the improvement or work is proposed to be done or made, it shall be sufficient if the notice of the proposed work or improvement describes the street or place or portion thereof, whereon or wherein the work or improvement is to be done or made by a general description thereof, stating the points between which it is to be made, and it shall not be necessary to state the value of the real property rateable therefor, or to impose a rate upon such real property by any description other than that hereinbefore mentioned. R. S. O. (1887) c. 184, s. 623. (1).

(4) In such cases the council shall procure a measurement of the frontage liable to the assessment for the cost of the proposed work or improvement and of the frontages exempt from taxation, and shall keep a statement of the same open for inspection in the office of the clerk of the municipality for at least ten days before its final decision to undertake the said proposed work or improvement, and the council shall also cause to be inserted in a public newspaper published within the municipality or in the county town, or in a public newspaper published in the nearest municipality in which a public newspaper is published, once a week for two successive weeks, a notice in the form following or to the like effect:

Take notice that the municipal council of the corporation of the *intends to (describing the work) on*
street, between (describing the points between which the work has been or is
to be made or constructed) and to assess the final cost thereof upon the property abutting thereon, "and to be benefited thereby," and that a statement showing the lands liable to pay the said assessment, and the

names of the owners thereof, so far as they can be ascertained from the last revised assessment roll, is now filed in the office of the clerk of the municipality and is open for inspection during office hours.

The estimated cost of the work is \$ of which \$ is to be provided out of the general funds of the municipality.

A court of revision will be held on at for the purpose of hearing complaints against the proposed assessment or accuracy of the frontage measurements or any other complaint which persons interested may desire to make, and which is by law cognizable by the court.

Dated

Clerk.

R. S. O. (1887) c. 184, s. 623. (2).

(5) There shall be the same right of appeal from any such proposed assessment to the court of revision, and from the court of revision to the county judge, as is provided in section 569 of this Act, and the proceedings thereon shall, except as otherwise provided by this Act, be the same (as nearly as practicable) as in the case of appeals from ordinary assessments under *The Assessment Act*, and the court of revision and the county Judge shall respectively have the like jurisdiction, rights and powers in respect to every such appeal as in the case of such last mentioned appeals. R. S. O. (1887) c. 184 s. 623 (3).

(6) The said statement, or the same as altered or varied by the court of revision or the county judge upon appeal, shall be final and conclusive as to all matters therein contained. R. S. O. (1887) c. 184, s. 623 (4).

LOANS AND ADVANCES FOR COST OF LOCAL IMPROVEMENTS.

619.—(1) For the purpose of enabling councils to avoid the necessity of making supplementary assessments, or re-funding in case of over assessments, and of ascertaining the exact cost of any work or improvement, done or constructed as a local improvement under the provision of this Act, they may and they are hereby authorized and empowered to make agreements with any bank, or any person or body corporate for temporary advances and loans until the completion of the work or improvement, for meeting the cost thereof, and they may and they are hereby authorized and empowered in their option to make the special assessments for the cost thereof, after the work or improvement, as the case may be, shall have been completed, and to pass the necessary by-law authorizing the issue of debentures to repay the amount of the temporary loan or advance. R. S. O. (1887) c. 184, s. 621 (1).

(2) Every by-law for borrowing money shall provide for the repayment of the loan and the maturing of the debentures.

tures to be issued pursuant to such by-law, within the probable life of the work or improvement for which such debt has been incurred, as certified by the engineer, or other proper officer, to be appointed by the council for that purpose. R. S. O. (1887) c. 184, s. 621 (2).

(3) If in any case a debt has been incurred by the municipality for any work or improvement done or constructed under the provisions of this Act, and after the incurring of the said debt the special assessment for such work or improvement or the by-law providing for borrowing money therefor, is set aside or quashed, either wholly or in part, on the ground of any irregularity or illegality in the making of such assessment or passing such by-law, it shall be lawful for the council, and they are hereby authorized, to cause a new assessment or assessments to be made, and to pass a new by-law, so often as may be necessary to provide funds for the payment of the debt so incurred for such work or improvement: Provided always that nothing herein contained shall be construed as authorizing any assessment to be made or work or improvement to be undertaken, except the same be initiated in some one of the three methods by law provided, namely:

- (a) Either on the report of the engineer or other sanitary officer, and of a committee of the council, adopted by the council, recommending the proposed work or improvement for sanitary or drainage purposes; or
- (b) On a petition of the owners of the real property benefited, sufficiently signed; or
- (c) After due notice, as above provided, of the proposed assessment and no sufficiently signed petition of the owners, as hereinbefore defined, of the real property benefited against the proposed assessment being presented to the council within the time limited therefor. R. S. O. (1887) c. 184, s. 621 (3).

ASSESSMENTS FOR LOCAL IMPROVEMENTS.

620.—(1) In ascertaining and determining the cost of draining any locality or making and laying or prolonging any common sewer, the council of any township, city, town or incorporated village, may estimate the cost of the construction of branch drains from the drain or sewer to the line of street, and may include the cost of such branch drains in

making the assessment for such drains or sewers, as a local improvement to the last preceding section. R. S. O. (1887) c. 184 s. 618.

(2) In any case where in order to afford an outlet for the sewerage and drainage of real property other than that fronting or abutting upon the street in which such a sewer shall hereafter be constructed such sewer shall be constructed of a larger capacity than that required for the efficient sewerage and drainage of the real property fronting or abutting upon the street, then and in every such case the council may impose a special assessment upon the other real property benefited by the construction of such sewer in the manner provided by sections 618 and 619 of this Act. 51 V. c. 28, s. 38 ; 5 V. c. 43, s. 68.

(3) In case the council of such municipality is about to construct, renew or alter the character of a pavement on any street, highway, or public place, or portion thereof, as a local improvement, the council may, before putting down such pavement, put in all necessary private drain connections, from any existing drain or sewer upon such street or portion thereof to the street line on each side of the drain or sewer, and also all necessary water mains, and may assess and levy the cost thereof, and of any alterations of service pipes and stop-cocks, necessitated thereby against the particular properties benefited thereby as part of the cost of the said local improvement, pursuant to the provisions of section 612 of this Act. 54 V. c. 42, s. 27.

(4) The council of every township, city, town and incorporated village may, by by-law, provide an equitable mode of assessing for local improvements, works and services, corner lots, triangular or other irregular shaped pieces of land situate at the intersections or junctions of streets, having due regard to the situation, value and superficial area of such lots, as compared with adjoining lots and pieces of land assessable for such improvements, works and services, and may charge the amount of any allowance made on any such lot or piece of land, on the other real property fronting on the improvements, or assume the same as a portion of the municipality's share of the work or improvements ; but any such assessment shall be subject to appeal to the court of revision and from the court of revision to the county judge as herein provided. R. S. O., (1887) c. 184, s. 614.

(5) It shall and may be lawful for the council of any township, city, town or incorporated village by a two-thirds vote of the council to pass by-laws to remit and refund so much of the special rates imposed prior to the 30th day of March, 1885, on corner lots and irregular pieces of land for the construction of pavements and sidewalks under local improvement by-laws as may be necessary to equalize the assessment [made on such property with the assessment made on adjoining properties for the same improvement or work, and to provide the amount of all rates so remitted or refunded by passing by-laws for borrowing money by the issue of debentures, or by including said amounts in the rate bills for the year ; provided that no such remission or refund shall be made in any case where the work or improvement shall have been made or constructed more than four years before the passing of the by-law authorizing the refund or remission. R.S.O., (1887) c. 184, s. 615.

(6) Where the lands on either side of a street, lane, or alley in a city, town or incorporated village, in the opinion of the council, are from any cause unfit for building purposes, and the council deem it inequitable to assess the same for local improvements at as high a rate as the building lots fronting on said street, lane or alley, the council shall, in all such cases, determine in what proportion the cost of any such improvement shall be borne by the lands on each side of the said street, lane or alley, respectively. R.S.O., (1887) c. 184, s. 617.

(7) Real property adjoining and fronting on any park, square, public drive or boulevard shall be specially assessable for and in respect of the improvements, works and services made, done or provided upon or in any such drive or boulevard in like manner as real property fronting or abutting upon any public street, but where a public park, square, drive or boulevard exists or may hereafter be established, the lands adjoining it not exempt from taxation shall be assessable only in respect of such improvements, works and services to the extent to which such lands are specially benefited by such improvements, works and services ; and where the lands on one side of such drive or boulevard are a public park or square, or for other reasons are exempt from taxation at least one-half of the cost of such improvements, works and services shall be borne by the municipality generally ; and no petition against any such assessment shall avail to prevent the carrying out of

any improvement, work or service in any such park, square, drive or boulevard, and the making of such special assessment. 52 V. c. 36. s. 39; 54 V. c. 42, s. 28.

BRIDGES, STREET EXTENSIONS, SIDEWALKS, ETC.

621.—(1) Where it shall, in the opinion of the council of any township, city, town or incorporated village, be deemed expedient and necessary to construct or repair bridges or culverts on any street, lane or alley, or to open up and extend any street, lane or alley within the limits thereof for the more immediate convenience or benefit of any locality within such limits, and the council is of opinion that from any cause it is inequitable to charge the whole of the cost of the improvement on the lands fronting thereon, the council shall determine what lands are benefited by such works or improvements, and the proportion in which the cost thereof shall be assessed against the lands so benefited, and also the proportion, if any, of the cost of the improvement, which shall be assumed by the township, city, town or incorporated village as its share thereof: provided always that the share or proportion of the cost of such improvement assumed by the municipality may be provided for by the issue of debentures upon the credit of the municipality at large, in like manner as in the case of the share of the municipality of other local improvements, and that all assessments made under the above provisions shall be subject to an appeal to the court of revision and from the court of revision to the county judge in like manner as in the case of other special assessments for local improvements, under the provisions of this Act. R. S. O. (1887) c. 184, s. 618; 51 V. c. 28, s. 36.

(2) If in the case of the construction or repair of a bridge or culvert, or the opening up and extension of any street, lane or alley, the council shall determine that any real property other than that fronting or abutting on the street, lane or alley, or the portion thereof whereon or wherein the improvement is made, or to be made, is specially benefited, and ought to be charged with a part of the cost thereof, and shall determine the proportion in which the cost of the improvement shall be assessed against the lands so benefited the council shall assess and levy the proportion of the cost chargeable against the lands benefited, but not fronting or abutting upon such street, lane, or alley, by a frontage rate, in like manner as the same would be assessed and levied in

the case of lands fronting or abutting upon the street, lane or alley, or the portion thereof whereon or wherein the improvement is made or to be made. R. S. O. (1887) c. 184, s. 619.

(8) Or in the case of a township, the council may, by by-law, provide that the cost of the works therein specified may be assessed and levied by a special rate upon the lands benefited thereby according to the proportion of benefit received therefrom instead of by a frontage rate, as hereinbefore provided, and where the owners of real property have constructed works or improvements which might have been constructed by the municipality as local improvements, the council may, upon the petition of three-fourths of the owners of lands to be benefited by the acquisition of such works or improvements, representing at least two-thirds in value thereof, acquire the same at a price to be fixed by arbitration pursuant to this Act, and the purchase money therefor may be raised, assessed and levied, as for local improvements upon the real property benefited thereby as above provided.

(a) The number of owners petitioning for the said assessments, and the value of the real property which they represent may be ascertained and finally determined in such manner, and by such means as are provided by by-law in that behalf subject to an appeal to the judge of the county court as in the case of other special assessment for local improvements. 51 V. c. 28, s. 37.

622. In any case when the council affirms by a two-thirds vote thereof that the constructing, erecting or making of any bridge, culvert or embankment, benefits the municipality at large, and that it would be inequitable to raise the whole cost of such improvement or work by local special assessments, the council may pass a by-law for borrowing money by the issue of debentures upon the credit of the municipality at large to provide as the corporation's share of the cost of such improvement or work an amount not exceeding one-half of the whole cost thereof; and no such by-law shall require the assent of the electors before the final passing thereof. R. S. O. (1887) c. 184, s. 618 (2).

623. The council may permit the owner or owners of lands in any township, city, town or incorporated village,

to build or improve the sidewalk in front of his or their lands, under the direction of the council or an officer thereof appointed for that purpose, and according to such plans and regulations as the council may prescribe, in which case the owners or occupants of such lands shall be exempt from all taxes for improvements of a like nature so long as he or they shall keep the same in repair to the satisfaction of the council. R. S. O. (1887) c. 184, s. 620.

623a. Whenever in cities and towns an appeal lies from the court of revision to the county court judge under sections 569 to 623 inclusive, the said county judge shall, in addition to his other powers under this Act and *The Assessment Act*, have the power to enquire and determine what other lands (if any) than those included in the assessment appealed from are or will be specially benefited by the proposed work or improvement and to add such lands to the assessment, notwithstanding such lands or any part thereof may not have been specified in any notice of appeal to the said judge; and the said judge shall cause all parties to be affected by the addition to the assessment of their lands, to be notified of the time and place when the said appeal and matter will be considered, and may for that purpose adjourn the hearing of the said appeal from time to time. (*New*).

624.—(1) Any real property specially assessed by any council for any local improvement or work under this Act, shall be exempted by the council from any general rate or assessment for the like purpose, except the cost of works at the intersection of streets, and except such portion of the general rate as may be imposed to meet the cost of like works opposite real property which is exempt from such special assessment.

(2) Where a local improvement or service is petitioned for, and the petition is by two-thirds in number of the owners of the real property fronting or abutting upon the street or place wherein or whereon such improvement or work is proposed to be done or made, the exemption may be for a specified period named in the petition and agreed to by the council.

(3) Or if, either with or without naming any period for such exemption, the petition requests an arbitration, the council may accede to the proposal, for an arbitration.

(4) In case the matter is to be determined by arbitration, a sole arbitrator shall be chosen for the purpose by the county Court Judge, unless some person or persons is or are agreed to in that behalf by the petitioners and the council.

(5) Where, by reason of a special assessment, the owners are exempted from a general rate, for the like purpose, as aforesaid, the council, shall, from year to year, by by-law directing the general rate of assessment, or by some other by-law, state what proportion of the general rate is for purposes for which there is such special assessment in any part of the municipality, and shall state the same in such manner as may give effect to this section.

(6) Until a by-law is passed containing such statement, none of the money raised by general rate on real property specially assessed or rated for any work or service hereafter executed shall be applied to any work or service of the same character in any part of the municipality. 46 V. c. 18, s. 619.

625.—(1) The council of any township, city, town or incorporated village may, by a by-law, passed with the assent of the electors according to the provisions of this Act, direct that all future expenditure in the municipality for the improvements and services, or for any class or classes of improvement or service, for which special provisions are made in sections 612 and 629, shall be by special assessment on the property benefited, and not exempt by law from assessment.

(2) After such a by-law has been passed in manner aforesaid, it shall not be repealed without the like assent of the electors; and, in case of such repeal, the preceding section, with respect to freedom from any general rate or assessment of property which is subject to a special rate, shall apply to all property which has been specially rated or assessed for such improvement or service, while the repealed by-law was in force. The time the exemption is to cease, is to be determined by arbitration, and the arbitrator is to be appointed by the County Judge on the application of the council. 46 V. c. 18, s. 620; 50 V. c. 29, s. 48.

(3) Notwithstanding anything contained in sub-section 3 of section 612, after such a by-law has been passed in manner aforesaid, the council may pass a by law or by-laws dividing the municipality into certain areas, districts or

sections within which the streets or parts of streets may be maintained, repaired, cleaned, cleared of snow and ice, watered, swept, lighted and the grass therein cut and trees therein trimmed, and may impose a special rate upon the assessed real property therein, according to the frontage thereof, in order to pay any expenses incurred in maintaining, repairing, cleaning, clearing of snow and ice, watering, sweeping and lighting such streets or parts of streets, and cutting grass and trimming trees therein, or for any one or more of such services. 48 V. c. 89, s. 80.

626. With respect to land on which a place of worship is erected, and land used in connection therewith, the municipal council may, by the by-law to be passed in that behalf, require the corporation, trustees, and other persons in whom is vested any such property, and the said property, to be assessed for any local improvement in the same manner, and to the same extent, as the other owners and land benefited by the improvement, in the following cases, namely:

1. In case a by-law is passed under the preceding section;
2. Or in case no such by-law is passed, but two-thirds of the owners of the real property to be benefited by the proposed improvement (excluding such corporation, trustees, or other persons aforesaid), representing at least one-half in value of the remaining property, petition the council to undertake the said improvement;
3. Or in case no such by-law is passed as aforesaid, but the said corporation, trustees or other persons, and two-thirds of the owners of the real property to be benefited by the proposed improvement (including the said corporation, trustees, or other persons), representing at least one-half in value of the property, including the said property so vested in the corporation, trustees, or other persons aforesaid, petition the council for the said improvement. 46 V. c. 18, s. 621.

NOTE.—See 53 V. c. 55, ss. 1-3.

627.—(1) In case of a special assessment on property benefited by local improvement, the council of the municipality (if they think fit) may, by by-law, provide for constructing, at the expense of the general funds of the municipality, such part of the local improvement as is situate upon or in that part of any street, lane, alley, public place,

or square, which is intersected by any other street, lane, alley, public place, or square, or as would otherwise fall on property exempt from assessment: and the council may provide for the cost in the general rates or taxes for the year, or by the issue of debentures, or in such other manner not inconsistent with the provisions of this Act, or any special Act, as to said council may seem best, and subject to such by-laws as the council may pass in that behalf.

(2) The by-law authorizing the issue of the debentures need not be submitted for the assent of the electors of the municipality; and the debentures being issued to pay for that part of the work payable by local assessment may, if the council thinks fit, be issued as a series distinct from those required to pay for that part which is to be borne by the general funds of the municipality, or all the debentures required for the work may be issued in one series, as "Local Improvement Debentures." This sub-section shall be deemed declaratory of the law on and from the 5th day of March, 1880. 46 V. c. 18, s. 622.

628.—(1) The council of any township, city, town, or incorporated village may pass all by-laws necessary, from time to time, to raise loans and borrow moneys required for its share of any local improvements and works on the credit of such township, city, town, or incorporated village at large; and it shall not be necessary to obtain the assent of the electors of such township, city, town, or village to the passing of any such by-law under the provisions of this Act, any special or private Act in that behalf to the contrary notwithstanding; provided always that nothing in this section contained shall be construed as authorizing an extension of the general debt of such township, city, town, or village beyond the limits thereof fixed by any Act limiting the same.

(2) It is hereby declared that the debentures issued under local improvement by-laws on the security of special assessments therefor form no part of the general debt of any such municipality, within the meaning of any such last above-mentioned Act, and it shall not be necessary to recite the amount of such local improvement debt so secured by special rates or assessments in any by-law for borrowing money on the credit of the township, city, town, or incorporated village at large as aforesaid, but it shall be sufficient to state in any such by-law, that the amount of the general debt of the municipality as therein set forth is exclusive of

local improvement debts, secured by special Acts, rates or assessments. 46 V. c. 18, s. 623; 50 V. c. 29, s. 48.

NOTE—(612) "Ascertaining and determining what real property will be immediately benefited." Councils would find it convenient to work under a general by-law as provided by s. 615 for so ascertaining and determining, upon any application, what property would be benefited; such by-law should among other things state:—(1) That the assessment for the improvement or work is to be made on the frontage or area of the lands benefited; (2) That upon receipt of petition it shall be referred to the clerk and assessor to ascertain if sufficiently signed by the necessary two-thirds of the owners, representing one-half of the value of lands to be benefited and liable for the proposed improvement; (3) That upon the satisfactory report of the clerk and assessor, as to the genuineness of the signatures and proper representation of value of lands to be benefited, the engineer or surveyor (with or without a committee or commissioners), shall examine and report on the advisability or necessity of undertaking such improvement—showing the real property to be benefited—the probable life time of the improvement, the cost of the work and proportionate benefit to be derived by the several portions of land, to be charged for the improvement, the frontage or area liable to assessment as well as frontages and areas which may be exempt. In case the Council should decide to undertake the work or improvement, the proper notices must be given by the clerk of the intention of the Council to so proceed—the probable cost of the work—assessment and date for Court of Revision. (See form s. 618, s. s. 6); an appeal may be had to the County Judge against an assessment as provided by s. 569, being similar to proceedings under the Assessment Act. By sec. 624 property which is specially assessed for

a local improvement is exempt from any general rate *for the like purpose*. See note to s. 629. Sections 569 to 611*d* inclusive, if consolidated with the various sections of all acts affecting drainage and with ss. 612-628 inclusive, of this Act, would render the law respecting drainage more intelligible to the municipal student and simplify the working of the local improvement proceedings.

629.—(1) The council of every township, city, town and incorporated village may pass by-laws for raising, upon the petition of at least two-thirds of the freeholders and householders resident in any street, square, alley or lane, representing in value one-half of the assessed real property therein, such sums as may be necessary for sweeping, watering or lighting the street, square, alley or lane, by means of a special rate on the real property therein, according to the frontage thereof, or according to the assessed value thereof when only such latter system of assessment shall have been adopted by a three-fourths vote of the full council; but the council may charge the general corporate funds with the expenditure incurred in such sweeping, watering or lighting as aforesaid. 46 V. c. 18, s. 624 (1); 50 V. c. 29, ss. 45, 48.

NOTE.—*Re* voting by the Council. See s. 616 (4).

“Two-thirds of all the members of the Council at any regular meeting thereof,” s. 620 (5) “a two-thirds vote of the Council,” s. 622 “when the Council affirms by a two-thirds vote thereof,” s. 629 (1-2) “adopted by a three-fourths vote of the full council. 53 V. c. 50, s. 42 “in the opinion of two-thirds of the members present at any regular meeting;” a record of the members present, and of the vote should always be recorded in the minutes.—See note to s. s. 4.

(2) The council may also, by by-law, define certain areas or sections within the municipality, in which the streets should be watered, swept and lighted, and may impose a special rate upon the assessed real property therein, according to a frontage thereof, or according to the assessed value thereof when only such latter system of assessment shall have been adopted by a three-fourths vote of the full

council, in order to pay any expenses incurred in watering, sweeping or lighting such streets. 46 V. c. 18, s. 624 (2); 54 V. c. 42, s. 29.

(3) The council may also include in either of the foregoing by-laws, the cutting of grass and weeds, and trimming the trees or shrubbery on any such street, square, alley or lane, and otherwise cleaning the same. 48 V. c. 39, s. 31.

(4) The council may also by by-law define certain areas or sections within the municipality, in which all snow, ice and dirt and other obstructions shall be removed from the side-walks, streets, lanes or alleys, in such area or sections, and may impose a special rate upon the real property therein, according to the frontage thereof, in order to pay any expenses incurred in removing such snow, ice, dirt, or other obstruction. 50 V. c. 29, s. 46.

NOTE—On petition of two-thirds of the freeholders and householders residing on the street, square, alley or lane representing one half in value of the assessed property therein, the Council *by a three-fourths vote of the full Council* may pass a by-law for raising such sums as may be necessary for sweeping, watering or lighting the same. The Council may also define areas within which the streets should be watered *and* lighted, etc., by a three-fourths vote of the *full council*. Under 53 V. c. 50, s. 42, the improvement must be pronounced “desirable in the public interest” by a two-thirds vote of the *members present at any regular meeting*. In each case the vote should be recorded in the minutes.

TOWNSHIP AND VILLAGES.

630.—(1) In addition to the powers conferred upon the councils of townships and incorporated villages by sections 612 to 628, both inclusive, of this Act, the council of any such township or village, under and subject to the provisions of the said sections, may pass by-laws providing for lighting, or for the construction of water works or for the purchase of fire engines and other appliances, for the purpose of fire protection.

(2) The said council may, by the same or any subsequent by-law, define by metes and bounds, or otherwise, what real property will be immediately benefited by the proposed improvement, and is to be charged with the cost thereof, and may also, by such by-law, make provision for assessing and levying on the property so defined the cost of managing and maintaining the said works, fire engine and appliances.

(3) Sub-section 3 of section 612 of this Act, shall not apply to any works constructed under the powers by this section conferred.

(4) The council of a township may also by the same or any subsequent by-law, direct in any case where a fire engine and appliances for the purpose of fire protection have been or are about to be purchased, that at the then next ensuing, and at each subsequent municipal election for the municipality, three trustees, with the powers and for the purposes hereinafter mentioned, be elected for the same periods of time and in the same manner as municipal councillors are elected, provided, however, that no person shall have a vote at said election of said trustees unless he or she be the owner of real property defined by a by-law of the said municipality as real estate to be benefited by and charged with the cost of the purchase of such fire engine and appliances, and has the same qualifications as are required by this Act to enable owners of real estate to vote at municipal elections.

(5) The said trustees shall have the care, control and management of said fire engine and appliances. 48 V. c. 39, s. 32; 50 V. c. 29, s. 48; 51 V. c. 28, s. 38; 52 V. c. 36, s. 40; 54 V. c. 42, s. 31.

630a.—(1) In addition to the powers conferred upon the councils of townships by sections 612 and 628, both inclusive, and by section 530 of this Act, the council of any township, may, on the petition of two-thirds in number of the owners, representing one-half in value of the property proposed to be assessed and subject to the provisions of said sections, may pass by-laws providing for the maintenance and repair of any highway or portion thereof which has theretofore been a toll road, and has been abandoned as such, within the jurisdiction of such council, and may define by the same or any subsequent by-law what real property will be immediately benefited by the work, and is to

be charged with the cost thereof, and may also declare what proportion of the cost is to be borne by the real property within the limits defined by the by-law, and what proportion shall be borne by the general funds of the township, and may also by by-law make provision for assessing and levying upon the property so defined the cost of such maintenance and repairs not provided by the township.

(2) Sub-section 3 of section 612 of this Act and section 624 shall not apply to work done under the provisions of this section. 58 V. c. 50. s. 39, (680a).

NOTE—Proceedings under this section are subject to the provisions of ss. 612-628.

In addition to the powers given by *The Municipal Water Works Act* and subject to all the provisions of the said Act, including those relating to the making of compensation and otherwise, every municipal corporation may acquire by purchase, demise or gift the right or title to any stream, river, creek, waters, water power, water course or lands situate, being or flowing in or through any such municipality, or within three miles thereof, and build, erect, make, preserve, improve, renew, widen or alter any dam or dams, water gates, waste gates, weirs or flumes upon, over or across any such stream, river, creek, waters, water course or lands, and make, dig, widen, preserve, alter or improve any raceway or raceways leading to or from any such dam or dams, for the purpose of obtaining power to run or drive the necessary machinery for supplying electric light within the municipality.

COUNTIES.

631. The council of every county shall have power to pass by-laws for levying, by assessment on all ratable property within any particular part of one or parts of two townships to be described by metes and bounds in the by-law, in addition to all other rates, a sum sufficient to defray the expenses of making, repairing or improving any road, bridge, or other public work, lying within one township or between parts of such two townships, and by which the inhabitants of such parts will be more specially benefited, but this section shall not apply to any road, bridge or other public works within the limits of any town or incorporated village. 46 V. c. 18, s. 625.

682. No by-law under the last preceding section shall be passed, except—

1. Upon a petition signed by at least two-thirds of the electors who are rated for at least one half of the value of the property within those parts of such township which are to be affected by the by-law ; nor

2. Unless a printed notice of the petition, with the names of the signers thereto, describing the limits within which the by-law is to have force, has been given for at least one month, by putting up the same in four different places within such parts of the township, and at the places for holding the sittings of the council of each township, whether it be within such parts or not, and also by inserting the same weekly for at least three consecutive weeks in some newspaper (if any there be), published in the county town, or if there is no such newspaper, then in the two newspapers published nearest the proposed work. 46 V. c. 18, s. 626.

683.—(1) A county council may, by by-law, assume or acquire any road, bridge or other public work, lying within or adjacent to one or more townships or incorporated towns or villages, and may, by by-law, raise by way of loan, a sum of money for the improvement of such road, bridge or public work, to be repaid by a special assessment on all the ratable property within the municipalities which shall be immediately benefited by such road, bridge or public work. 46 V. c. 18, s. 627 (1); 49 V. c. 37, s. 34.

(2) Such by-law shall state the amount to be raised for such work, and shall define the municipalities forming the portion of the county municipality to be affected by the by-law, and the portion of work to be performed in each municipality, and shall provide for the raising of the said amount by the issue of debentures of the county, payable in twenty years, or by equal annual instalments of principal, with interest, and shall provide for assessing and levying upon all the ratable property, lying within the section defined in such by-law, an annual special rate sufficient for the payment of the principal and interest of the debentures.

(3) The by-law shall, if approved by a majority of the representatives in the county council of the municipalities which are defined in the said by-law, be submitted to the vote of the qualified ratepayers in the portion of said

county to be affected by said by-law who are entitled to vote on money by-laws.

(4) In case there should be a majority of votes cast against the by-law in any one or more of the municipalities mentioned therein, although the by-law be carried, then the same shall only apply to those municipalities in which it has received a majority of the votes cast, and shall not affect the other municipalities mentioned, in any way, and the amount of money mentioned in the by-law to be raised by way of loan, shall be reduced by the proportionate amount which the said municipality or municipalities, giving a majority of votes against the by-law, would have been required to pay under the by-law.

(5) In case there should be a majority of votes cast against the by-law in any one or more municipalities mentioned therein, although the by-law be carried, then upon the approval of the majority of the representatives in the county council of the municipalities which have given a majority of votes in favour of the by-law, the same may be read a third time and passed by the county council, or dropped altogether; but in case the by-law is finally passed only the representatives in the county council of those municipalities giving a majority in favour of the by-law, and to be affected by the same, shall have any voice in reference to the expenditure of the money to be raised thereby.

(6) In all other respects the voting on the by-laws, and the passing and subsequent proceedings thereon, shall be in accordance with the provisions of this Act. 46 V. c. 18, s. 627 (2-6).

(7) Cities and towns separated from the county may, with the approval of the ratepayers qualified to vote on money by-laws, pass similar by-laws to assist in the purchase of any toll roads, in which the cities or separated towns may be interested, or may pass by-laws abolishing the market fees charged by them, on condition that certain toll roads therein named are made free. 49 V. c. 37, s. 34, *part.*

POWERS OF MUNICIPAL COUNCILS AS TO
RAILWAYS.

634. The council of every county, township, city, town and incorporated village may pass by-laws—

1. For subscribing for any number of shares in the capital stock of, or for lending to, or for guaranteeing the payment of any sum of money borrowed by, an incorporated railway company to which section 18 of the statute 14 and 15 Victoria, chapter 51, or sections 75 to 78 inclusive of chapter 66 of the Consolidated Statutes of Canada, or the equivalent sections of *The Railway Act of Ontario*, have been or may be made applicable by any special Act; or to which the equivalent sections of *The Railway Act of Canada* do now or may hereafter apply;

2. For endorsing or guaranteeing the payment of any debenture to be issued by the company for the money by them borrowed, and for assessing and levying from time to time, upon the whole ratable property of the municipality, a sufficient sum to discharge the debt or engagement so contracted;

3. For issuing, for the like purpose, debentures payable at such times, and for such sums respectively, not less than \$20, and bearing or not bearing interest, as the municipal council thinks meet.

4. For granting bonuses to any railway company in aid of such railway, and for issuing debentures, in the same manner as is in the preceding sub-section provided, for raising money to meet such bonuses;

5. For directing the manner and form of signing or endorsing any debenture so issued, endorsed or guaranteed, and of countersigning the same, and by what officer or person the same shall be so signed, endorsed or countersigned respectively;

But no municipal corporation shall subscribe for stock, or incur a debt or liability, for the purposes aforesaid, unless the by-law, before the final passing thereof, receives the assent of the electors of the municipality in manner provided by this Act. 46 V. c. 18, s. 628. *See also* Cap. 170, s. 39 (3), and *sec. 320 ante.* 52 V. c. 36, s. 41.

635. In case any municipal council subscribes for and holds stock in a railway company under the next preceding section to the amount of \$20,000 or upwards, the head of the council shall be *ex-officio* one of the directors of the company, in addition to the number of directors authorized by the special Act, and shall have the same rights, powers and duties as the other directors of the company.

635 (a)—(1) In addition to the powers conferred by section 634 a portion of a township municipality which may be interested in securing the construction of a railway, or through or near which any such railway may pass or be situated, may aid the said railway by granting money or debentures by way of bonus or gift, or by way of loan to such railway under and subject to the provisions hereinafter contained, provided always that such aid shall not be given except after the passing of a by-law for the purpose, and the adoption of such by-law by the qualified ratepayers of the said portion of the municipality in the manner provided in respect to granting aid by way of bonuses to railways.

(2) Before a by-law is submitted under this section to the vote of the ratepayers a petition shall be presented to the council expressing the desire to aid the railway, and stating in what way and for what amount, and defining the portion of the township to be charged by metes and bounds, or lots and concessions, and shall be signed by fifty, or a majority of the freeholders, in such portion of the township, being duly qualified voters under this Act.

(3) The by-law shall in each instance provide :

(a) For raising the amount petitioned for in the portion of the municipality mentioned in the petition by the issue of debentures of the municipality, and shall also provide for the delivery of the debentures or the application of the amount to be raised thereby as may be expressed in the said by-law.

(b) For assessing and levying upon all ratable property lying within the portion of the municipality defined in said by-law, an annual special rate sufficient to include a sinking fund for the repayment of the said debentures within twenty years with interest thereon payable yearly, or

half yearly, which debentures the councils, reeves and other officers of the municipality are hereby authorized to execute and issue in such cases. 46 V. c. 18, s. 629. *See also* Cap. 170, s. 39 (4); 51 V. c. 28, s. 34; 53 V. c. 50, s. 2.

636. The council of every township may pass by-laws for authorizing any railway company, in case such authority is necessary, to make a branch railway on property of the corporation, or on highways, under such conditions as the council sees fit, and subject to the restrictions contained in *The Railway Act of Ontario*, and any other Acts affecting such railway; and may also pass by-laws to authorize companies or individuals to construct tramways and other railways, along any highway, on such terms and conditions as the council sees fit. 46 V. c. 18, s. 630.

NOTE—But see R. S. O. 171, ss. 4, 17, also note to s. 546.

637. So much of any enactment in private and other Acts, passed on or before the fifth day of March, 1880, as authorizes or provides for the grouping or joining together of municipalities or a municipality, or part of any municipalities or municipality with part of another municipality or parts of other municipalities, for the purpose of granting municipal aid to any railway or railway company, is hereby repealed and declared to be inoperative.

637a. The council of every municipality within the districts of Algoma, Thunder Bay and Rainy River whether established under the provisions of chapter 185 of the Revised Statutes of Ontario or of any special Act may pass by-laws:

For granting aid by way of bonus for the promotion of iron smelting works within its limits or within the limits of any municipality contributing aid thereto by granting such sum or sums of money to any person or body corporate in respect of such industry as the said municipality may determine upon; and to pay such sum, either in one sum or in annual or other periodical payments, with or without interest, and subject to such terms, conditions and restrictions as the said municipality may deem expedient;

(a) No such by-law shall be passed until the assent of the electors has been obtained, in conformity with the provisions of this Act, in respect of

by-laws for creating debts and shall obtain the assent of one-third of all ratepayers entitled to vote, as well as a majority of the ratepayers voting on such by-law.

- (b) No property owner or lessee interested in, or holding shares of stock in, any company shall be qualified to vote on a by-law for the purpose of granting a bonus to the company in which he is so interested as aforesaid.
- (c) Any municipality granting such aid, may take and receive security for the compliance with the terms and conditions upon which such aid is given.

40. Whenever there is a dispute between a county council and the council of any other municipality as to whether the duty or liability to build or maintain a bridge on any river or stream belongs to or rests upon such county council or such other council, either party to the dispute may bring and prosecute an action in the High Court of Justice for Ontario against the other to try the question in dispute, or the said court may, upon the application of either party, compel by mandamus the performance, by the party upon or to whom such duty or liability rests or belongs, of such duty or liability.

41. The council of every city with a population of 100,000 or over may pass a by-law or by-laws for granting aid to the University of Toronto and may create a debt therefor, and may issue debentures for the amount of such debt, and no such by-law shall require the assent of the ratepayers of the municipality before the final passing thereof, unless such amount shall exceed \$500.

42. Notwithstanding anything contained in sections 612 to 623 inclusive, of *The Municipal Act* or in any by-law of the municipality, the corporation of any city or town may construct and lay down a plank sidewalk upon and along any street, lane, alley or other thoroughfare or park in the said city or town as a local improvement, and the cost thereof may be assessed against the properties fronting or abutting thereon, if such sidewalk is in the opinion of two-thirds of the members present at any regular meeting of the city or town council desirable in the public interest.
54 V. c. 42, ss. 33-34.

43. Lands dedicated by any owner thereof for a street or public highway shall not be subject to any claim for dower by the wife of any person by whom the same was dedicated.

44. The municipal council of any city having a population of 50,000 or more may pass a general by-law prescribing the minimum width of streets, lanes, alleys or other public places within the municipality wherein dwelling houses may be erected or occupied and the minimum area of vacant land to be attached to and used with any dwelling house hereafter to be erected, as the courtyard or curtilage thereof, and the mode of erection of buildings occupied or intended to be occupied as dwelling houses within the municipality or within any area or areas thereof to be defined by the said by-law or by any other by-law as may from time to time alter or amend or repeal any such by-law.

(2) Every such by-law before the final passing thereof shall be published in full twice in each week for four consecutive weeks in two newspapers published in the city with a notice appended thereto, stating the date when the council proposes to take the proposed by-law into consideration.

45. The Act entitled *An Act respecting the Revised Statutes of Ontario, 1887*, passed in the fiftieth year of Her Majesty's reign, chaptered 2, from section 7 to section 10 thereof, both inclusive, shall in so far as the same may be applicable and unless where inconsistent with this Act, apply hereto.

46. This Act shall be read with and form part of *The Municipal Act*, and except as hereinbefore provided with respect to sections 13 and 30, shall come into force on the first day of July, 1890, and as to those sections at the time therein respectively mentioned. 53 V. c. 50, ss. 40-46.

85. Where local improvements benefiting real property have heretofore or shall hereafter be made under the provisions of the local improvement clauses of this Act the costs whereof, in whole or in part, have been charged upon or against the real property, the petitioning for or procuring to be made, or the making of any such local improvements, or the charging the costs thereof upon or against the real property, or the fact that they are a charge upon or against such real property, shall not be deemed to be a breach of the covenant by a vendor or person agreeing to sell that he

has done no act to encumber the real property, except to the extent that the annual or other payments in respect of such charge are in arrear, and unpaid, but this shall not affect or apply to any case already adjudicated upon or now pending in litigation.

36. (1) The majority in number of the persons shewn by the last revised assessment roll to be the owners of the real property comprised in any portion of a township, city, town or incorporated village to be defined in the petition hereinafter referred to, and who represent at least one-half in value according to such assessment roll of such property, may petition the council to aid any street railway company by granting money or debentures by way of bonus or gift or by way of loan to such company to assist in the construction of the railway to, through or partly through or near to such portion, and may in such petition define the manner and amount of the aid desired.

(2) Upon receipt of such petition, the council after the assent of a majority of the ratepayers within such portion of the municipality, who are entitled to vote thereon, has been obtained, in the manner provided by *The Municipal Act*, may pass the by-law for the granting of such aid in accordance with the petition and for raising the amount petitioned for in the portion of the municipality mentioned in the petition, by the issue of debentures of the municipality, and for the delivery of the debentures or the application of the amount to be raised thereby, as may be expressed in the by-law, and for the assessing and levying upon all the ratable real property lying within the portion of the municipality defined in the by-law an annual special rate for the repayment of the said debentures within twenty years, with the interest thereon payable yearly or half-yearly, which debentures the council, reeves and other officers of the municipality are hereby authorized to execute and issue.

(3) The principal and interest of such debentures may be made repayable by annual instalments, as provided for by section 342 of *The Municipal Act*, or a sinking fund may be provided for by the by-law.

(4) In any and every case in which street railway lines are built by different duly incorporated street railway companies in the same or adjoining municipalities along different routes to the same terminal point, then in case an

agreement cannot be arrived at between two such companies providing for the exchange and transfer of tickets for a continuous trip over both such lines or portion thereof, the matters in difference in respect thereof shall be referred to arbitration under the provisions of *The Municipal Act*.

37. The council of any city may include in the annual estimates a sum to be expended in the reception and entertainment of distinguished guests, and any travelling expenses necessarily incurred in and about the business of the corporation, which sum shall, in the case of cities having a population of 100,000 or over, be not more than \$5,000; in the case of other cities having a population of 20,000 and over, not more than \$1,000, and in the case of other cities, not more than \$500 in any year.

38. In case all the owners of the property or lots abutting according to the original survey by the Crown on the road, street or public way hereinafter mentioned to be benefited thereby, in any part of any township, petition the council for the macadamizing, gravelling, planking or otherwise improving by approved material, and draining any road, street or public way (describing it), or building a bridge in connection therewith, the council may procure an engineer or provincial land surveyor to make an examination of the said road, street or public way so proposed to be improved, and may procure plans and estimates to be made of the said work by such engineer or surveyor of the real property, municipalities and corporations to be benefited by such work, or the owners or occupants of which real property may or can use the same, stating as nearly as may be in the opinion of such engineer or surveyor the proportion of benefit to be derived therefrom by every road and lot or portion of lot, and of any railway or street railway, or municipality or corporation; and if the council is of opinion that the proposed work or a portion thereof would be desirable, the council may pass by-laws:

(1) For providing for the proposed work or a portion thereof being done, as the case may be.

(2) For borrowing, on the credit of the municipality, the funds necessary for the work, although the same extends beyond the limits of the municipality (subject, in that case to be reimbursed as hereinafter mentioned), and for issuing the debentures of the municipality to the requisite amount, including the costs of arbitration, if any, in sums of not

less than \$100 each, and payable within twenty years or less from date, with interest at the rate of not less than four per cent. per annum.

39. The several provisions of *The Municipal Act* from section 569 to section 611, both inclusive, and the amendments thereto, not inconsistent with the last preceding section and in aid thereof, shall, *mutatis mutandis*, be applicable, as far as possible, to the making and improvement of the said road, street or public way, and the drainage and other work connected therewith, in manner hereinbefore provided, as if the said several sections related to roads and the improvement thereof, so as to make the said clauses efficient for the construction of roads in substantially the same way as drains are now constructed.

40. Any real property specially assessed by any council for any local improvement or work under the two last preceding sections of this Act may be exempted by the council, in whole or in part, from any general rate or assessment for the like purpose.

41. Any owner of real property to be benefited by the construction of any work or improvement, the cost of which is payable by local special assessment under sections 612 to 623 of *The Municipal Act*, as amended and consolidated by section 38 of *The Municipal Amendment Act, 1890*, may, notwithstanding that his name does not appear on the last revised assessment roll of the municipality, petition for or against such local improvement upon satisfying the clerk of the municipality by a statutory declaration or otherwise that he is the owner of the property instead of the person assessed therefor upon such last revised assessment roll.

43. This Act shall be read with and shall form part of *The Municipal Act*, and shall come into force on the first day of July, 1891; except as to section 36, which shall come into force upon the passing hereof. 54 V. c. 42, ss. 35-43.

NOTE.—See note to section 611.

72. When changes have been made in the boundaries of a city, or a new division of a city into wards under section 22 of *The Municipal Act* has been made and it has been deemed expedient by the council or the clerk thereof to postpone the annual election for mayor or aldermen or the public school board for the city, until after the completion

of new voters' lists prepared upon the basis of the new division into wards, and a new division thereof into polling sub-divisions, and a new election has been held after the completion of such voters' lists for such mayor, aldermen or trustees, such election shall not be held to have been void, invalid or illegal for the reason that the same did not take place at the time provided by law for holding the annual municipal or school board elections. This section shall apply to past elections only. 55 V. c. 48, s. 72.

POLICE VILLAGES.

638. Until otherwise provided by competent authority, every existing police village shall continue to be a police village with the boundaries now established. 46 V. c. 18, s. 632.

639. On the petition of any of the inhabitants of an unincorporated village, the council or councils of the county or counties within which the village is situate may, by by-law, erect the same into a police village, and assign thereto such limits as may seem expedient. 46 V. c. 18, s. 633.

640. The trustees of every police village existing when this Act takes effect, shall be deemed the trustees respectively of every such village as continued under this Act. 46 V. c. 18, s. 634.

641. The trustees of every police village shall be three in number. 46 V. c. 18, s. 635.

642. The persons qualified to be elected police trustees shall be such persons as reside within the police village or within two miles thereof, and are eligible to be elected township councillors, and are qualified in respect of property for which they are rated in such police village to the amount required so to qualify them. 46 V. c. 18, s. 636.

643. If there are not six persons qualified under the preceding section, any person entitled to vote at the election may be elected. 46 V. c. 18, s. 637.

644. Any township elector, rated on the last assessment roll for such property in a police village as entitles him to vote in respect thereof at the municipal election for the township, shall be entitled to vote at the election for police trustees. 46 V. c. 18, s. 638.

645. The council by which a police village is established shall, by the by-law establishing the same, name the place in the village for holding the first election of police trustees, and the returning officer therefore. 46 V. c. 18, s. 639.

646. In a police village, after the first election, the trustees thereof, or any two of them, shall, from time to time, by writing under their hands, appoint the returning officer, and the place or places within such village for holding nominations and elections. 46 V. c. 18, s. 640.

647. No election of police trustees shall be held in a tavern, or in a house of public entertainment licensed to sell spirituous liquors. 46 V. c. 18, s. 641.

648.—(1) A meeting of the electors shall take place for the nomination of candidates for the offices of police trustees in each police village, at noon on the last Monday in December, annually, at such place therein as is from time to time fixed by the trustees.

(2) When the last Monday in December happens to be Christmas day, the meeting shall be held on the preceding Friday. 46 V. c. 18, s. 642.

649. The returning officer (or, in his absence, a chairman to be chosen) shall preside at such meeting, of which the police trustees shall give at least six day's notice. 46 V. c. 18, s. 643.

650. If only three candidates are proposed and seconded, the returning officer or chairman shall, after a lapse of one hour, declare such candidates duly elected. 46 V. c. 18, s. 644.

651. If more than the necessary number of candidates are proposed, the returning officer or chairman shall adjourn the proceedings until the first Monday in January, when a poll or polls shall be opened for the election, at nine o'clock in the morning, and shall continue open until five o'clock in the afternoon, and no longer. 46 V. c. 18, s. 645.

652 The returning officer or chairman of the meeting shall, on the day following that of the nomination, post up in the office of the clerk of the township, if it is situated in such police village, and if not, then in some other public

place in such police village, the names of the persons nominated at such meeting; and shall, if a poll is necessary, demand in writing from the clerk of the township, or clerks of the townships, a list of the names of the persons appearing by the assessment roll to be entitled to vote in the said police village, such as is required to be furnished under the next succeeding section. 46 V. c. 18, s. 646.

653. The clerk of the township, or clerks of the townships in which any police village is situated, shall, at latest on the day previous to the day for opening the poll, deliver to the returning officer of such police village a list of the names, according to the form by law prescribed in the case of other municipal elections, of the persons entitled to vote at township municipal elections, in respect of real property situate, or income received in the said police village, or in the portion thereof in the municipality of such clerk, and shall attest the said list by his solemn declaration in writing under his hand. 46 V. c. 18, s. 647.

654. The various sections of this Act relating to the proceedings at the nomination and election of township councillors, including those relating to the questions to be put and oaths to be administered to electors, and as to the appointment of a chairman or returning officer, in case the person appointed is absent, and also the provisions respecting controverted elections and for the prevention of corrupt practices, shall apply and be acted on, unless where a different provision is herein made, in the election of police trustees. 46 V. c. 18, s. 648.

655. In case a casting vote is required to determine an election, the returning officer, whether otherwise qualified or not, shall give a casting vote for one or more of such candidates, so as to decide the election, and except in such case the returning officer shall not vote at such election. 46 V. c. 18, s. 649.

656. The returning officer shall have the like powers for the preservation of the peace as are given to returning officers and deputy returning officers at municipal elections. 46 V. c. 18, s. 650.

657. The persons elected shall hold office until their successors are elected or appointed and sworn into office and hold their first meeting. 46 V. c. 18, s. 651.

658. Every returning officer shall, on the day after the close of the poll, return the ballot papers, voters' list and other documents relating to the election, to the clerk of the township in which the village is situated, or in case the village lies in several townships, then to the clerk of the county, verified under oath before such clerk, or before any Justice of the Peace for the county or union of counties in which the village lies, as to the due and correct taking of the votes. 46 V. c. 18, s. 652.

659. In case of a vacancy in the office of a police trustee by death or otherwise, the remaining trustee or trustees shall, by writing to be filed with such clerk as aforesaid, appoint a trustee or trustees to supply the vacancy. 46 V. c. 18, s. 653.

660. The trustees of every police village, or any two of such trustees, shall, by writing under their hands, to be filed with the clerk of the township, or in case the village lies in several townships, with the clerk of the county, appoint one of their number to be inspecting trustee. 46 V. c. 18, s. 654.

DUTIES OF POLICE TRUSTEES.

661. Every police trustee shall take oaths of office and qualification in the same manner and within the time prescribed for township councillors, under like penalties in case of default. 46 V. c. 18, s. 655.

662. The trustees of every police village shall hold their first meeting at noon on the third Monday of the same January in which they are elected, or on some day thereafter at noon. 46 V. c. 18, s. 656.

663. The trustees, at any time previous to the first day of June, may require the council of the township or townships in which the police village is situated to cause to be levied along with the other rates, upon the property liable to assessment in such village, such sums as they may estimate to be required to cover the expenditures for that year in respect of matters coming within their duties, and to cover any balance for expenditures incurred during the year then last past; such sum not to exceed one cent in the dollar on the assessed value of such property. 46 V. c. 18, s. 657.

70. The trustees of every police village may pass by-laws for letting contracts, or employing labour and purchasing material, for building sidewalks, culverts, putting in drains and making, repairing and improving streets, and doing all things necessary for such purposes within the limits of the police village. 55 V. c. 48, s. 70.

71. The rate levied for police village purposes upon the property liable to assessment in such village by the township or townships in which the police village is situated, shall be in lieu of such proportion of the township rate now levied for the same or like purposes within such village as the trustees and the council may by agreement provide. 55 V. c. 48 s. 71.

664. In case the village is situated in two or more townships, the trustees shall require a proportionate amount from each, according to the value of the property of the village in each township, as shewn by the last equalized assessment rolls. 46 V. c. 18, s. 658.

665. The township treasurer shall from time to time, if he has moneys of the municipality in his hands not otherwise appropriated, pay any order given in favor of any person by the inspecting trustee, or by any two of the trustees, to the extent of the amount required to be levied as afore-said, although the same may not have been then collected. 46 V. c. 18, s. 659.

666. No trustee shall give such order in favour of any person except for work previously actually performed, or in payment of some other executed contract. 46 V. c. 18, s. 660.

667. The trustees of every police village shall execute and enforce therein the regulations following:

1. Every proprietor of a house more than one story high shall place and keep a ladder on the roof of such house near to or against the principal chimney thereof, and another ladder reaching from the ground to the roof of such house, under a penalty of \$1 for every omission; and a further penalty of \$2 of every week such omission continues.

2. Every householder shall provide himself with two buckets fit for carrying water in case of accident by fire, under a penalty of \$1 for each bucket deficient.

3. No person shall build an oven or furnace unless it adjoins and is properly connected with a chimney of stone or brick at least three feet higher than the house or building in which the oven or furnace is built, under a penalty not exceeding \$2 for non-compliance.

4. No person shall pass a stovepipe through a wooden or lath partition or floor, unless there is a space of four inches between the pipe and the woodwork nearest thereto ; and the pipe of every stove shall be inserted into a chimney ; and there shall be at least ten inches in the clear between any stove and any lathed partition or woodwork, under a penalty of \$2.

5. No person shall enter a mill, barn, outhouse or stable with a lighted candle or lamp, unless well enclosed in a lantern, nor with a lighted pipe or cigar, nor with fire not properly secured, under a penalty of \$1.

6. No person shall light or have a fire in a wooden house or outhouse, unless such fire is in a brick or stone chimney, or in a stove of iron or other metal, properly secured, under a penalty of \$1.

7. No person shall carry fire or cause fire to be carried into or through any street, lane, yard, garden or other place, without having such fire confined in some copper, iron, or tin vessel, under a penalty of \$1 for the first offence, and of \$2 for every subsequent offence.

8. No person shall light a fire in a street, lane or public place, under a penalty of \$1.

9. No person shall place hay, straw or fodder, or cause the same to be placed, in a dwelling-house, under a penalty of \$1 for the first offence, and of \$5 for every week the hay, straw or fodder is suffered to remain there.

10. No person, except a manufacturer of pot or pearl ashes, shall keep or deposit ashes or cinders in any wooden vessel, box or thing not lined or doubled with sheet-iron, tin or copper, so as to prevent danger of fire from such ashes or cinders, under a penalty of \$1.

11. No person shall place or deposit any quick or unslacked lime in contact with any wood of a house, outhouse or other building, under a penalty of \$1, and a further penalty of \$2 a day until the lime has been removed, or secured to the satisfaction of the inspecting trustee, so as to prevent any danger of fire.

12. No person shall erect a furnace for making charcoal of wood, under a penalty of \$5.

13. No person shall keep or have gunpowder for sale, except in boxes of copper, tin or lead, under a penalty of \$5 for the first offence, and \$10 for every subsequent offence.

14. No person shall sell gunpowder, or permit gunpowder to be sold in his house, storehouse or shop, outhouse or other building, at night, under a penalty of \$10 for the first offence, and of \$20 for every subsequent offence.

15. No person shall throw, or cause to be thrown, any filth or rubbish into a street, lane or public place, under a penalty of \$1, and a further penalty of \$2 for every week he neglects or refuses to remove the same after being notified to do so by the inspecting trustee, or some other person authorized by him. 46 V. c. 18, s. 662.

668. The inspecting trustee, or in his absence, or when he is the party complained of, one of the other trustees, shall sue for all penalties incurred under the regulations of police herein established, before a Justice of the Peace having jurisdiction in the village and residing therein, or within five miles thereof; or if there be no such Justice than before any justice of the Peace having jurisdiction in the village; and the Justice shall hear and determine such complaint in a summary manner, and may convict the offender, upon the oath or affirmation of a credible witness, and cause the penalty, with or without costs, as he may see fitting, to be levied by distress and sale of the goods of the offender, to be paid over to the path-master or path-masters of the division or divisions to which the village belongs, or to such of the said path-masters as the trustees may direct; and such path-master or path-masters shall apply the penalty to the repair and improvement of the streets and lanes of the village, under the direction of the trustees. 46 V. c. 18, s. 668.

669. Any police trustees who wilfully neglects or omits to prosecute an offender at the request of any resident householder of the village offering to adduce proof of an offence against the regulations of police herein established, or who wilfully neglects or omits to fulfil any other duty imposed on him by this Act, shall incur a penalty of \$5. 46 V. c. 18, s. 664.

670. The penalties prescribed by the next preceding section, or by that for the establishment of regulations of police, shall be sued for within ten days after the offence has been committed or has ceased, and not subsequently. 46 V. c. 18, s. 665.

CONFIRMING AND SAVING CLAUSES.

671. Nothing herein contained shall be taken or construed to affect or repeal so much of the schedules in either of the Municipal Corporation Acts of 1849 and 1850 as defines the limits or boundaries of any cities or towns, being Schedule B of the Act of 1849, numbers 2, 3, 4, 6, 7, 8, 9, 10 and 11, and Schedule C of the same Act, numbers 1, 2 and 3, and Schedule B of the Act of 1850, numbers 1, 5, 12, 13, 14 and 15; and also so much of Schedule D of the said Acts of 1849 and 1850 as relates to Amherstburgh, and also so much of section 208 of the said Act of 1849, and so much of any other sections of either of the said Acts relating to any of the schedules thereof as have been acted upon, or as are in force and remain to be acted upon at the time this Act takes effect, and all proclamations and special statutes by or under which cities and other municipalities have been erected, so far as respects the continuing the same and the boundaries thereof, shall continue in force. 46 V. c. 18, s. 666.

672. Nothing herein contained shall affect *The Act respecting the establishment of Municipal Institutions in the Districts of Algoma, Muskoka, Parry Sound, Nipissing, Thunder Bay, and Rainy River.* 46 V. c. 18, s. 667.

AN ACT CONSOLIDATING AND REVISING THE PUBLIC SCHOOLS ACTS.

(54 Vic., 1891.)

(CONTINUED.)

INSPECTORS.

149. No person shall be appointed inspector of public schools who does not hold an inspector's certificate of qualification, and no teacher or trustee of any public, high or separate school shall be appointed inspector while acting as teacher or trustee. R. S. O. c. 225, s. 175.

150.—(1) The municipal council of each county shall appoint an inspector for such county, providing always that any inspector appointed hereafter for a county or part of a county, shall be the inspector of the schools of any town not separated from the county in the district to which he has been appointed. R. S. O. c. 225, s. 176 (1), *part*.

(2) One inspector shall not have charge of more than one hundred and twenty schools or less than fifty but it shall not be necessary to appoint more than one inspector in each riding of a county. R. S. O. c. 225, s. 176 (1), *part*, (2).

(3) In counties containing any municipality wherein the French or German language is the common or prevailing language, an inspector may have charge of any number of schools not less than forty. R. S. O. c. 225, s. 176 (3).

(4) In counties where there are more than fifty public schools, the county council may appoint two or more inspectors, and prescribe and number the territorial limits of each, and change or remove the inspectors from one district or riding of the county to another. R. S. O. c. 225, s. 176 (4).

151. In the event of a vacancy occurring in the office of county inspector, the warden of the county may appoint any person legally qualified to fill such vacancy until the next ensuing meeting of the county council. Notice of such appointment or of any appointments by the county council shall be given to the Minister of Education forthwith. R. S. O. c. 225, ss. 177, 178.

152. Every county inspector shall, in case of misconduct or inefficiency, be subject to dismissal by the Lieutenant-Governor in Council, or by a majority of the members of the council appointing him, or without cause by a vote of two-thirds of such council, and no such inspector shall be re-appointed without the concurrence of the party who dismissed him. R. S. O. c. 225, s. 180.

153. The Lieutenant-Governor may direct the payment annually out of the Consolidated Revenue of the sum of \$5 per school to each county inspector, and the county council shall pay quarterly at the rate of not less than an equal amount per school, and in addition thereto reasonable travelling expenses, the amount to be determined by the county council. R. S. O. c. 225, s. 181.

154. The Lieutenant-Governor in Council may appoint such inspectors as may be deemed expedient for the purpose of inspecting schools in the territorial districts and encouraging the establishment of new schools, and also for conducting any examination prescribed by the Education Department, or reporting on any school matter, and any person or persons so appointed shall be paid out of any moneys appropriated by the Legislature for educational purposes. R. S. O. c. 225, s. 182. (*Amended*).

NOTE.—In every examination, a pupil's general proficiency and standing during the year should be taken into consideration, as nervous excitement consequent to the arrival of examination day frequently binds up the retentive faculties of a certain class to such an extent, that failure might be printed on their examination papers before being distributed. In such cases, the student, knowing his own ability and right to advancement, becomes dispirited, his ambition and aspirations are crushed, and he retires from a course which might have led to a brilliant future.

155. It shall be the duty of every county inspector :—

1. To visit every public school within his jurisdiction once in each term, unless required to do so oftener (for the adjustment of disputes or other purposes) by the county council which appointed him, and to see that every school is conducted according to this Act and the regulations of the Department ;

2. To examine at his visits of inspection, into the condition of the school, as respects the progress of the pupils in learning ; the order and discipline observed ; the system of instruction pursued ; the mode of keeping the school registers ; the average attendance of pupils ; the character and condition of the building and premises ; and to give such advice to the teachers, pupils and officers of the school as he may consider proper ;

3. To deliver from time to time, public lectures in his district on some subject connected with public school education ;

4. To withhold his order for the amount apportioned from the legislative or municipal grant to any school section ; (a) When the school was kept open for less than six months in the year ; or (b) When the trustees fail to transmit the annual or semi-annual school returns properly filled up ; or, (c) When the trustees fail to comply with the School Act, or the regulations of the Education Department ; or (d) When the teacher uses, or permits to be used, as a text book any book not authorized by the Education Department ; and in every case to report to the trustees and to the Education Department his reasons for so doing ;

5. To give when desired any information in his power to the Minister of Education, respecting any public school matter within his jurisdiction, and to prepare and transmit to the Minister of Education, on or before the first day of March, an annual report in the form prescribed by the Education Department ;

7. To recommend to the county or township council such special aid as he may deem advisable to be given to new or weak school sections in the county ;

8. To appoint, in his discretion, the time and place for a special school meeting ;

9. To give, at his discretion, any candidate, on due examination, a certificate of qualification to teach a school

within his district until the next ensuing professional examination of teachers ;

10. To deliver over to his successor, on retiring from office, copies of his official correspondence, and all school papers in his custody, on the order of the county council or public school board appointing him. R. S. O. c. 225, s. 188. (*Amended*).

INSPECTORS OF CITIES AND TOWNS.

156. Inspectors of cities and of towns separated from the county, shall possess the same qualifications and powers and shall be subject to the same duties as county inspectors under this Act, so far as the same are applicable. They shall also discharge such other duties as may be prescribed by the board of school trustees, by whom they are appointed, or by the regulations of the Education Department. R. S. O. c. 225, s. 187.

157.—(1) Inspectors in cities and in towns separated from the county shall be appointed by the board of public school trustees, and shall be subject to dismissal by the Lieutenant-Governor in Council or by a majority of the members of the board, in case of inefficiency or misconduct, or by a vote of two-thirds of the board without cause, and no such inspector shall be re-appointed without the concurrence of the party who dismissed him. R. S. O. c. 225, s. 184. (*Amended*).

(2) When the teachers engaged by the trustees of any city exceed three hundred in number the board shall appoint two inspectors, and likewise an additional inspector for every three hundred teachers on the staff above six hundred. (*New*).

158. (1). When the public school board of any town not separated from the county has before the passing of this Act appointed an inspector, other than the county inspector within whose district such town is situated, the county treasurer, on demand shall pay to the order of such board a sum of money equal to the amount collected within such town for the payment of the salary of the county inspector. R. S. O. c. 225, s. 185.

(2). The Lieutenant-Governor in Council may direct annually the payment out of the Consolidated Revenue of a sum not exceeding \$5 for every teacher occupying a

separate room with a separate register, to the school board of any city or town separated from the county, towards the payment of the salary of the public school inspector. (*New*).

159. No inspector of schools shall, during his tenure of office engage in or hold any other employment, office, or calling which would interfere with the full discharge of his duties as inspector. R. S. O. c. 225, s. 188.

160. In cases where any inspector requires the testimony of witnesses to the truth of any fact alleged in any complaint or appeal made to him or to the Minister of Education or the Education Department, it shall be lawful for such inspector to administer an oath to such witnesses, or to require their solemn affirmation before receiving their testimony. R. S. O. c. 225, s. 189.

ALLOWANCE TO ARBITRATORS AND INSPECTORS.

161.—(1) All persons engaged as arbitrators on any matter arising under this Act shall be paid the sum of four dollars per diem and travelling expenses. In making their award the arbitrators shall, among other things, determine the liabilities of the parties concerned therein for the costs of such arbitration, and such determination shall be final and conclusive. R. S. O. c. 225, s. 190. (*Amended*).

(2) When any complaint is made to an inspector with regard to any matter affecting the validity of the election of a public school trustee, or the procedure of a school meeting requiring the taking of evidence where the cause of complaint arose, the trustees of the school section concerned shall pay the inspector while conducting such investigation the sum of \$4 per diem and travelling expenses. (*New*).

SUPERANNUATION.

162. Every teacher or inspector whose name is entered as having paid into the fund for the support of superannuated teachers, may contribute to such fund in such manner as may be prescribed by the Education Department, the sum of at least \$4 annually. R. S. O. c. 225, s. 191.

163.—(1) On the decease of any teacher or inspector² his wife, her husband, or other legal representative, shall be entitled to receive back the full amount paid into the superannuation fund by such teacher or inspector, with interest

at the rate of seven per cent. per annum. R. S. O. c. 225, s. 192.

(2) No teacher or inspector who has reached the age of sixty years shall be held to be disqualified from superannuation by reason of his having retired from active service before reaching the age of sixty, provided that such teacher or inspector has served for a period of thirty-five years, and that no payment shall be made to such teacher or inspector until he has reached the age of sixty. (*New*).

164 —(1) Every teacher or inspector who, while engaged in his profession, contributes to the superannuated teachers' fund as provided by this Act, shall, on reaching the age of sixty years, be entitled to retire from the profession at his discretion, and receive an allowance or pension at the rate of \$6 per annum, for every year of such service in Ontario, upon furnishing to the Education Department satisfactory evidence of good moral character, of his age, and of the length of his service as teacher or inspector.

(2) Every pension payable under this Act may be supplemented out of local funds by any municipal council or public school board at its pleasure.

(3) To remove doubts—nothing in this section contained shall be held as applying to any person who, prior to 1871, had ceased to be engaged in his profession as a teacher, and had not, prior to the 30th day of March, 1885, contributed to the said fund, and no payment for arrears shall be hereafter received. R. S. O. c. 225, s. 193.

165. Every teacher or inspector under sixty years of age who has contributed as aforesaid and who is disabled from practising his profession, shall be entitled to a like pension, or local supplementary allowance, upon furnishing the like evidence, and upon furnishing to the Education Department from time to time, in addition thereto, satisfactory evidence of his being disabled. R. S. O. c. 225, s. 194.

166. Every teacher or inspector entitled to receive an allowance from the superannuated teachers' fund, who holds a first or second-class provincial certificate, or a first-class county board certificate, or who is a principal of a high school or collegiate institute, shall in addition to said allowance or pension, be entitled to receive a further allowance at the rate of \$1 per annum for every year of

service while he held such certificate, or while he acted as principal of a high school or collegiate institute. R. S. O. c. 225, s. 195.

167. The retiring allowance shall cease at the close of the year of the death of the recipient, and may be discontinued at any time should the pensioned teacher fail to maintain a good moral character, to be vouched for (when requested) to the satisfaction of the Education Department. R. S. O. c. 225, s. 196.

168. If any pensioned teacher or inspector shall, with the consent of the Education Department, resume the profession of teaching or inspecting, the payment of his allowance shall be suspended from the time of his being so engaged. In case such teacher or inspector is again placed on the superannuation list a pension for the additional time of service shall be allowed him, on his compliance with this Act, and the regulations of the Education Department. R. S. O. c. 225, s. 197, 198.

169. Any teacher or inspector who, having resumed his profession, draws or continues to draw upon the superannuation fund for any part of his allowance as a superannuated teacher, shall forfeit all claim to the fund, and his name shall be struck off the list of superannuated teachers. R. S. O. c. 225, s. 199.

170. In the case of those teachers or inspectors who may not avail themselves of the provisions of sections 162 or 171 of this Act, the provisions of sections 163 to 171 inclusive shall apply so far as relates to all sums of money already paid into the fund for the support of superannuated teachers. R. S. O. c. 225, s. 200.

171. Any teacher who retires from the profession, or any teacher or inspector who desires to remove his name from the list of contributors to the superannuated teachers' fund, shall be entitled to receive back from the Minister of Education one-half of any sums paid by him or her to the fund, through the public school inspector, or otherwise. R. S. O. c. 225, s. 201.

NON-RESIDENT PUPILS.

172.—(1) The trustees of every public school shall admit to their school any non-resident pupils who reside nearer such school than the school in their own section,

providing always the inspector reports the accommodation of the school room sufficient for the admission of such pupils. In case of dispute as to the distance from the school, the decision of the inspector shall be final. R. S. O. c. 225, s. 202 (1). (*Amended*).

(2) The parents or guardians of such non-resident children shall pay to the trustees of the school to which their children have been admitted such fees monthly as may be mutually agreed upon, provided such fees, together with the taxes paid to such school (if any), do not exceed the average cost of the instruction of the pupils of such school. (*New*).

(3) Any person residing in one school section, and sending his children to a neighbouring school, shall, be liable for the payment of all rates assessed on his taxable property for the school purposes of the section in which he resides, but it shall be lawful for any board of trustees to remit so much of the school rates of any such person as would be the equivalent of the fees paid to the trustees of the neighbouring section. R. S. O. c. 225, s. 124.

(4) In case a county council establishes a house of refuge in any county any person of school age maintained in such house of refuge shall for the purposes of this Act be deemed a non-resident, and the county council shall pay to the trustees of the school attended by such person or persons such monthly fees as may be mutually agreed upon, provided such fees do not exceed the average cost of the instruction of the pupils of such school. R. S. O. c. 225, s. 203. (*Amended*).

HOLIDAYS.

173.—(1) The public school teaching year shall consist of two terms: in townships the first shall begin on the third Monday of August, and end on the 22nd day of December; the second term shall begin on the 3rd day of January, and end on the 30th day of June.

(2) In cities, towns and incorporated villages the first term shall begin on the last Monday of August, and end on the 22nd day of December; the second term shall begin on the 3rd day of January, and end on the 30th day of June, with holidays during the week following Easter Sunday.

(3) Every Saturday, every public holiday, and every day proclaimed a holiday by the authorities of the municipality in which the school section is situated, shall be a holiday in public schools. R. S. O. c. 225, s. 204. (*Amended*).

AUTHORIZED BOOKS.

174. No teacher shall use or permit to be used as text books any books in a model or public school, except such as are authorized by the Education Department, and no portion of the legislative grant shall be paid by the inspector to any school in which unauthorized books are used. R. S. O. c. 225, s. 205.

175. Any authorized text book in actual use in any public or model school may be changed by the teacher of such school for any other authorized text book in the same subject on the written approval of the trustees and the inspector, provided always such change is made at the beginning of a school term, and at least six months after such approval has been given. R. S. O. c. 225, s. 206.

176. In case any teacher or other person shall negligently or wilfully substitute any unauthorized text book in place of any authorized text book in actual use upon the same subject in his school, he shall for each such offence, on conviction thereof before a Police Magistrate or Justice of the Peace, be liable to a penalty not exceeding \$10 payable to the municipality for public school purposes, together with costs, as the Police Magistrate or Justice may think fit. R. S. O. c. 225, s. 207.

NOTE.—Changes in school books have been of too frequent occurrence in the past, and now that these books may be supplied *free*, the tendency to make changes should be carefully guarded against, as in many cases the advantage to the pupil may be only a secondary consideration. Again, it must be noted that the cost of such *free* books will appear on the *rate bill*.

SPECIAL INQUIRIES.

177. The Minister of Education shall have power to appoint one or more persons, as he may deem expedient, to inquire into and report to him upon any school matter; such inspector or other person or persons shall be entitled to such remuneration out of any moneys appropriated by the Legislature for that purpose as may be deemed just and equitable, considering the nature and extent of the duties to be performed. Such person or persons, or any of them, shall have power to administer oaths to witnesses, or require

them to make solemn affirmation of the truth of the matters they may be examined upon. R. S. O. c. 225, s. 226.

178. In any matter of inquiry which the Minister is by law authorized to institute, make or direct, a writ or writs of subpoena *ad testificandum* and also *duces tecum* may issue from the High Court upon the *præcipe* of the Minister of Education therefor, containing the names of the witnesses intended to be summoned thereby, to be directed to such person or persons for him or them to attend and give evidence under oath, at such times and places, and before such person or persons as the Minister shall appoint, and any default of any such person in obeying any such subpoena shall be punishable as in the like case in any action or cause in the said Court. R. S. O. c. 225, s. 227.

APPEALS FROM DIVISION COURT DECISIONS.

179. The Judge of any Division Court wherein any action between teachers, inspectors, trustees, or others acting under this Act, or *The High Schools Act*, is tried may, at the request of either party, order the entering of judgment to be delayed for a sufficient time to enable such party to apply to the Minister of Education to appeal the case. R. S. O. c. 225, s. 228.

180. The Minister may, within one month after the rendering of judgment in any such case, appeal from the decision of the Division Court Judge to the High Court at Toronto, by serving notice in writing of such appeal upon the clerk of the Division Court appealed from, which appeal shall be entitled "The Minister of Education for Ontario, Appellant, in the matter between (A. B. and C. D.)" But nothing herein contained shall be held to interfere with the right of any of the parties to the action exercising the ordinary right of appeal. R. S. O. c. 225, s. 229.

181. The Judge, whose decision is thus appealed from, shall thereupon certify under his hand, to the Registrar of the Division of the High Court appealed to, the summons and statement of claim and other proceedings in the case, together with the evidence and his own judgment thereon, and all objections made thereto. After notice of appeal has been served as hereinafter provided no further proceeding shall be had in such case until the matter of appeal has been decided by the High Court. R. S. O. c. 225, ss. 230, 231.

182. On the Judge receiving a notice of appeal from his decision (under the authority of this Act), he shall thereupon certify under his hand, to the Minister of Education, the statement of claim and other proceedings in the case, together with the evidence and his own judgment thereon, and all objections thereto. The High Court shall give such order or direction to the Court below, touching the judgment to be given in the matter, as the circumstances of the case require. Upon receipt of such order, direction, and certificate, the Judge of the Division Court shall forthwith proceed in accordance therewith. R. S. O. c. 225, ss. 232, 233, 236.

183. The Court may also in its discretion award costs against the appellant, which costs shall be certified to and form part of the judgment of the Court below. All costs awarded against an appellant, and all costs incurred by him, shall be paid by the Minister, and charged as contingent expenses of his office. R. S. O. c. 225, ss. 234, 235.

SCHOOL VISITORS.

184. All judges, members of the Legislature, members of county councils, and aldermen shall be school visitors in the municipalities where they respectively reside. All clergymen shall be school visitors in the municipalities where they have pastoral charge. R. S. O. c. 225, s. 238.

NOTE.—A professor or graduate of a University, lawyer or doctor, resident in a school section might be added to this list. See note to sec. 131, s-s. 5.

185. All school visitors may visit the public schools as in this Act provided. They may also attend the examination of schools, and at the time of any such visit, may examine the progress of the pupils, and the state and management of the school, and give such advice to the teacher and pupils, and any others present, as they deem expedient. R. S. O. c. 225, s. 239. (*Amended*).

PENALTIES AND PROHIBITIONS.

186. If any township clerk neglects or refuses to prepare and furnish the map of the school sections of his municipality as required by this Act, or if he neglects for one month

to make any return required by this Act, he shall be liable to a penalty not exceeding \$10, to be recovered before a Justice of the Peace, for the school purposes of his municipality, at the instance of any ratepayer thereof. R. S. O. c. 225, s. 242.

187. No person shall wilfully make a false declaration of his right to vote at any school meeting or election of school trustees; and any person convicted of a contravention of this section, upon the complaint of any person, shall be punishable by fine or imprisonment, at the discretion of the Court of General Sessions; or by a penalty of not less than \$5 or more than \$10 to be sued for and recovered with costs before a Justice of the Peace, by the public school trustees of the city, town, village, school section, or other division, for its use. R. S. O. c. 225, s. 243.

188. If any person elected as a school trustee attends any meetings of the school board as such, after being disqualified under this Act, he shall be liable to a penalty of \$20 for every meeting so attended. R. S. O. c. 225, s. 244.

189. No trustee of a school section shall hold the office of public school inspector, or be a master or teacher within the section of which he is a trustee; nor shall the master or teacher of any public, high, or separate school hold the office of trustee, nor shall an inspector be a teacher or trustee of any public, high or separate school while he holds the office of inspector. R. S. O. c. 225, s. 245.

190. Any trustee who is convicted of any felony or misdemeanour, or becomes insane, or absents himself from the meetings of the board for three consecutive months, without being authorized by resolution entered upon its minutes, or ceases to be an actual resident within the school section for which he is a trustee, shall *ipso facto* vacate his seat, and the remaining trustee or trustees shall declare his seat vacant and forthwith order a new election. R. S. O. c. 225, s. 246.

191. Any trustee who has any pecuniary interest, profit or promise or expected benefit in, or from any contract, agreement or engagement, either in his own name, or in the name of another, with the corporation of which he is a member, or who receives, or expects to receive any compensation for any work, engagement, employment or duty,

on behalf of such corporation, shall *ipso facto* vacate his seat, and every such contract, agreement, engagement or promise shall be null and void ; and, on the complaint of the remaining trustee or trustees, the county judge may declare the seat vacant, and forthwith order a new election, provided always that it shall be lawful for the trustees of any rural school section to allow the secretary or secretary-treasurer such compensation for his services, for the purposes specified in this Act as may be approved at the annual meeting of the ratepayers and duly entered in the minutes. R. S.O. c. 225, s. 247. (*Amended*).

192. In case any annual or other rural school meeting has not been held for want of the proper notice, every trustee or other person whose duty it was to give the notice, shall forfeit the sum of \$5 to be sued for and recovered before a Justice of the Peace, by any resident inhabitant in the rural school section, for the use thereof. R. S. O. c. 225, s. 248.

193. Any person who wilfully disturbs, interrupts, or disquiets the proceedings of any school meeting authorized to be held by this Act, or any one who wilfully interrupts or disquiets any public school established and conducted under its authority, or other school, by rude or indecent behaviour, or by making a noise either within the place or where such school is kept or held, or so near thereto as to disturb the order or exercises of the school, shall, for each offence, on conviction thereof before a Justice of the Peace, on the oath of one credible witness, forfeit and pay for public school purposes to the school section, city, town, or village within which the offence was committed, a sum not exceeding \$20 together with the costs of the conviction, as the said Justice may think fit. R. S. O. c. 225, s. 249.

NOTE.—Not only should the proceedings and exercises of a public school be protected against interruption by noise or unseemly conduct, but no communication should be had with the teacher on school matters, when engaged in teaching ; recommendations, enquiries or complaints, should be made to the trustees, whose duty it is to look after the best interests of the school.

194. If any person chosen as trustee refuses to serve he shall forfeit the sum of \$5. R. S. O. c. 215, s. 250.

195. Every person so chosen who has not refused to accept the office, and who at any time refuses or neglects to perform its duties, shall forfeit the sum of \$20 to be sued for and recovered before a Justice of the Peace, by the trustees of the school section or division, or by any person whatsoever for its use, as authorized by this Act. R. S. O. c. 225, s. 251.

196 If the trustees of any public school wilfully neglect or refuse to exercise all the corporate powers vested in them by this Act, for the fulfilment of any contract or agreement made by them, any trustee or trustees so neglecting or refusing to exercise such power shall be held to be personally responsible for the fulfilment of such contract or agreement. R. S. O. c. 225, s. 252.

197. Any chairman who neglects to transmit to the county inspector a minute of the proceedings of an annual or other rural school section meeting over which he has presided, within ten days after the holding of such meeting shall be liable, on the complaint of any ratepayer, to a fine of not more than \$5 to be recovered as provided by this Act. R. S. O. c. 225, s. 253.

NOTE.—See note to section 81.

198. If any trustees of any school section refuse or neglect to take proper security from the secretary-treasurer, or other person to whom they entrust school moneys, they shall be held personally responsible for the moneys. R. S. O. c. 225, s. 254.

199. If any part of the public school fund or moneys is embezzled or lost, through the dishonesty or faithlessness of any trustee, secretary-treasurer, or other person to whom it has been entrusted, and proper security against the loss has not been taken, the person or persons whose duty it was to have exacted the security shall be personally responsible for the sums so embezzled or lost; and such sums may be recovered from him or them by the person entitled to receive the same, by action in any Court having jurisdiction to the amount, or by information at the suit of the Crown. R. S. O. c. 225, s. 255.

200. No secretary-treasurer appointed by the school trustees of any school section, and no person having been such secretary-treasurer, and no trustee or other person who may have in his possession any books, papers, chattels,

or moneys, which came into his possession as such secretary-treasurer, trustee or otherwise, shall wrongfully withhold, or neglect or refuse to deliver up, or account for, and pay over the same or any part thereof to the person, and in the manner directed by a majority of the school trustees for the school section then in office, or by other competent authority; and such withholding, neglect or refusal to deliver up or account for, shall be punishable, as provided in the three following sections of this Act. R. S. O. c. 225, s. 256.

201.—(1) Upon application to the Judge of the County Court, by a majority of the trustees, or any two ratepayers in a school section supported by their affidavit made before some Justice of the Peace, of such wrongful withholding or refusal, the Judge shall make an order that such secretary-treasurer, or person having been such secretary-treasurer or trustee, or other person, do appear before him at a time and place to be appointed in the order.

(2) Any bailiff of a Division Court, upon being required by the Judge, shall serve the order personally on the person complained against, or leave the same with a grown-up person at his residence. R. S. O. c. 225, s. 257.

202. At the time and place so appointed, the Judge being satisfied that service has been made, shall, in a summary manner, and whether the person complained of does or does not appear, hear the complaint, and if he is of opinion that the complaint is well founded, the Judge shall order the person complained of, to deliver up, account for, and pay over the books, papers, chattels, or moneys as aforesaid, by a certain day to be named by the Judge in the order, together with such reasonable costs incurred in making the application as the Judge may tax. R. S. O. c. 225, s. 258.

203. In the event of non-compliance with the terms specified in such order, or any or either of them, the Judge shall order the said person to be forthwith arrested by the sheriff of any county in which he may be found, and to be committed to the common gaol of his county, there to remain without bail until the Judge be satisfied that the person has delivered up, accounted for, or paid over the books, papers, chattels or moneys in question, in the manner directed by the majority of the trustees, or other competent

authority as aforesaid; upon proof of his having so done, the Judge shall make an order for his discharge, and he shall be discharged accordingly. R. S. O. c. 225, s. 259.

204. No such proceeding shall impair or affect any other remedy which the said trustees, or other competent authority, may have against the secretary-treasurer, or person having been such secretary-treasurer or his sureties, or against any trustee or other person as aforesaid. R. S. O. c. 225, s. 260.

205. The trustees, or their secretary-treasurer in their behalf, shall not refuse to furnish the auditors of any accounts of a rural school section, or either of them, with any papers or information in their power, and which may be required of them relative to their school accounts, and any contravention of this section upon prosecution therefor by either of the auditors, or any ratepayer, shall be punished by fine or imprisonment, as provided by this Act. R. S. O. c. 225, s. 261.

206. In case the trustees of any rural school section neglect to transmit to the county inspector, on or before the 30th day of June, and the 31st day of December in every year, a correct and verified statement of the average attendance of pupils in each of the schools under their charge during the six months then immediately preceding, then the school section shall not be entitled to the apportionment from the school fund for the said six months, and the trustees so neglecting shall be personally responsible for the amount of the loss of such apportionment. R. S. O. c. 225, s. 262.

207. In case the trustees of any school section neglect to prepare and forward the aforesaid annual report to their county inspector by the 15th day of January in every year, each of them shall, for every week after such 15th day of January, and until such report has been prepared and presented, forfeit the sum of \$5 to be sued for by the county inspector, and collected and applied in the manner provided for by this Act. R. S. O. c. 225, s. 263.

208.—(1) If any trustee of a public school knowingly signs a false report, or if any teacher of a public school keeps a false school register, or makes a false return, with

the view of obtaining a larger sum than the just proportion of school moneys coming to such school, the trustee or teacher shall, for every offence, forfeit to the public school fund of the municipality the sum of \$20 for which any person whatever may prosecute him before a Justice of the Peace, and the trustee or teacher may be convicted on the oath of one credible witness other than the prosecutor.

(2) If upon conviction, the penalty is not forthwith paid, the same shall, under the warrant of the Justice, be levied with costs by distress and sale of the goods and chattels of the offender.

(3) The penalty, when so paid or collected, shall by the Justice be paid over to the said public school fund. R. S. O. c. 225, s. 264.

209.—(1) The trustees of every school section shall be personally responsible for the amount of any school moneys forfeited by or lost to the school section in consequence of the neglect of duty of the trustees during their continuance in office.

(2) The amount thus forfeited or lost shall be collected and applied in the manner provided for by this Act. R. S. O. c. 225, s. 265.

GENERAL PROHIBITIONS.

210.—(1) No teacher, trustee, inspector, or other person officially connected with the Education Department, the normal, model, public, or high schools or collegiate institutes, shall become or act as agent for any person or persons to sell, or in any way to promote the sale for such person or persons, of any school, library, prize or textbook, map, chart, school apparatus, furniture or stationery, or to receive compensation or other remuneration or equivalent for such sale, or for the promotion of sale in any way whatsoever. R. S. O. c. 225, s. 266.

(2) Any teacher who refuses to give up possession of any visitor's book, school register, school house key or any other school property in his possession shall not be deemed a qualified teacher until restitution is made, and shall also forfeit any claim which he may have against the said trustees. (*New*).

HOW FINES AND PENALTIES MAY BE RECOVERED.

211. (1)—Unless it is in this Act otherwise provided, all fines, penalties, and forfeitures recoverable by summary proceedings, may be sued for, recovered, and enforced with costs, by and before any Police Magistrate or Justice of the Peace having jurisdiction within the school section, city, town, or village in which such fine or penalty has been incurred.

(2) If the fine or penalty and costs are not forthwith paid, the same shall, by and under the warrant of the convicting Justice, be enforced, levied and collected with costs, by distress and sale of the goods and chattels of the offender, and shall be by the Police Magistrate or Justice paid over to the school treasurer of the school section, city, town, or village, or other party entitled thereto.

(3) In default of such distress, the Police Magistrate or Justice shall, by his warrant, cause the offender to be imprisoned for any time not exceeding thirty days, unless the fine and costs, and the reasonable expenses of endeavouring to collect the same, are sooner paid. R. S. O. c. 225, s. 267.

CONFIRMING AND SAVING CLAUSES.

212. All lands which, previous to the 24th day of July, 1850, were granted devised or otherwise conveyed to any person or persons in trust for common school purposes, and held by such person or persons and their heirs or other successors in the trust, and have been heretofore vested in the public school trustees of the school section or division in which such lands are respectively situate, shall continue vested in such trustees, and shall continue to be held by said trustees and their successors upon the like trusts and subject to the same conditions and estates upon or subject to which the said lands are now respectively held. R. S. O. c. 225, s. 268.

213. Chapter 225 of the Revised Statutes of Ontario, 1887, and chapter 51 of the Statutes passed in the 52nd year of Her Majesty's reign, are hereby repealed, but such repeal shall not in any manner or for any purpose be deemed or taken to alter, vary, affect or repeal any provision of law relating to Roman Catholic Separate Schools or the supporters thereof.

MISCELLANEOUS.

The appointment of officials should not be subject to such frequent changes. The clerk, after serving an apprenticeship, and becoming familiar with the duties of his office, becomes an important adjunct to the Council. Members may come and go, but the Clerk is the most reliable guide and instructor for new members. An Assessor when he becomes acquainted with the residents and property in his district, is less liable to commit an error than any one who may desire to supplant him ; and it is worthy of consideration whether the Assessor should not be also appointed Collector in the district where he has become so familiar with all the property, and the residence or location of the owners. Overseers of highways, and commissioners, have serious duties to perform, and the most competent persons should always be appointed in order that the highways may be kept in good repair. Better remunerate a good overseer for his time, than become liable for damages through any defect in highways or bridges. Generally, the services of an efficient official should be retained as long as his object is to work for the best interests of the municipality.

ERRATA.

Vol. I. p. 125: Note in second line, read "s. 9." In seventh line, read "s. 73."

OMISSION;—Read after page 179, s. 79, Vol. I.:

NOTE.—This section should be amended by adding after the clause "Firstly," a proviso, that in all municipalities adjacent to a city having a population of 100,000 and upwards, persons having the right to vote, shall consist of resident freeholders of the municipality. In many cases the resident vote is powerless to elect members of the Council. For instance:—The Township of York adjoining the City of Toronto, has 4,790 voters; of these, 2,669 are non-resident, and 2,121 resident voters. The Town of North Toronto, adjacent to said city, has 1,230 voters; of these, 887 are non-resident, and 343 resident voters; where personal interests are involved, a non-resident vote may be prejudicial to the best interests of the municipality.

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